

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

ELMHURST DAIRY, INC.,

Employer/Respondent,

-and-

MILK WAGON DRIVERS AND DAIRY
EMPLOYEES LOCAL 584, I.B.T.

**AFFIRMATION OF
ROBERT A. DOREN**

Case No. 29-CA-090017

Union/Charging Party.

ROBERT A. DOREN hereby affirms the following under the penalty of perjury:

1. I am an attorney duly admitted to practice before the National Labor Relations Board, and am a member of the firm of Bond, Schoeneck & King, PLLC, attorneys for the Employer/Respondent Elmhurst Dairy, Inc. ("Elmhurst") in this proceeding.

2. This Affirmation supports Elmhurst's motion for summary judgment. For the reasons set forth herein and the accompanying memorandum of law, Elmhurst respectfully submits that the allegations in the Complaint ought to be deferred to the parties' collectively bargained grievance procedure pursuant to Collyer Insulated Wire, 192 NLRB 837 (1971), and United Technologies Corp., 268 NLRB 557 (1984), absent dismissal on the merits.

3. Elmhurst is engaged in the business of milk processing, with operations including but not limited to the pasteurization, packing, selling and delivery of milk throughout New York City and surrounding areas.

4. Local 584 is the exclusive bargaining representative of utility, maintenance and pasteurizing employees and drivers employed by Elmhurst.

5. For many years prior to 2007, Elmhurst was a member of a multi-employer association, the Milk Industry Labor Association of New York (“MILA”).

6. As a member of MILA, Elmhurst was bound by collective bargaining agreements negotiated between the association and Local 584, including a collective bargaining agreement in effect from July 1, 2005 through June 30, 2007 (the “2005-2007 MILA Agreement”), a copy of which is attached as **Exhibit A**.

7. In 2007, Elmhurst timely withdrew from, and ceased being a member of, MILA and agreed to negotiate on a single employer basis.

8. Effective July 18, 2007, Elmhurst and Local 584 entered into a new collective bargaining arrangement setting forth the negotiated terms and conditions of employment for bargaining unit employees, effective July 18, 2007 to August 31, 2010 (the “Elmhurst 2007-2010 Agreement”), a copy of which is attached as **Exhibit B**.

9. As a result of the 2007 negotiations, Elmhurst employees in the bargaining unit represented by Local 584 were split into two groups based on their date of hire:

- (a) individuals hired before July 18, 2007 continued to be subject to the terms and conditions of the 2005-2007 MILA Agreement as amended by agreements reached by MILA and Local 584 during their 2007 and later during 2008 negotiations (*see Exhibit C*); and
- (b) individuals hired on or after July 18, 2007 were subject to the terms and conditions contained in the Elmhurst 2007-2010 Agreement itself as amended during the 2008 negotiations.

10. Elmhurst and Local 584 established this bifurcated system by including the following language in the Elmhurst 2007-2010 Agreement:

Employees on the Employer’s payroll prior to July 18, 2007 (“Existing Employees”), shall except as provided in this Agreement continue their employment under the terms and conditions provided for by the Collective Bargaining Agreement between Employer and the Union which expired July 1, 2007, 12:01 a.m. [the MILA Agreement] (brackets added). (**Exhibit B**, ¶28).

11. Since entering into the Elmhurst 2007-2010 Agreement, Elmhurst and Local 584 have consistently applied and re-confirmed this bifurcated system.

12. On October 18, 2008, Elmhurst and Local 584 negotiated an agreement modifying the Elmhurst 2007-2010 Agreement in regards to the installation of security cameras, a wage increase, a “buy out program” and a clothing allowance. A copy of this agreement is attached as **Exhibit D**.

13. In the October 18, 2008 agreement, Elmhurst and Local 584 continued to distinguish between “Existing Employees,” which they defined to mean “all employees on the payroll of Elmhurst prior to July 18, 2007,” and “New Hires,” which included “all employees on the payroll of Elmhurst hired after July 18, 2007” (**Exhibit D**, ¶2).

14. Elmhurst and Local 584 also continued to differentiate between “Existing Employees” and “New Hires” when setting terms and conditions of employment in the October 18, 2008 agreement, including by making the “buy out program” available only to “Existing Employees,” whereas the clothing allowance applied to both “New Hires” and “Existing Employees.” (**Exhibit D**, ¶¶6-7).

15. The Termination provision of the Elmhurst 2007-2010 Agreement provided for separate 60-day notices for renegotiation of the Elmhurst contractual terms and those under the MILA Agreement. Specifically, the contract provided:

If either of the parties shall desire to terminate or to make changes, modifications or additions in this Agreement at the expiration thereof, it shall notify the other party of such desire in writing at least sixty (60) days prior to the date of the expiration of the Agreement. In the absence of such timely notification, this Agreement shall be automatically renewed and extended for an additional period of one (1) year under the same terms and conditions. Provided that either party may, upon sixty (60) days notice to the other party, reopen this agreement effective September 1, 2008, with respect to the terms and

conditions of employment of the Existing Employees as defined in this Agreement. (*See Exhibit B*, p. 14, ¶ 30.)

16. On June 22, 2010 Elmhurst, pursuant to Section 8(d) of the National Labor Relations Act, notified the State and Federal Mediation Services that the two contracts applicable to the Elmhurst employees would expire August 31, 2010. Specifically the notices provided:

We represent Elmhurst Dairy, Inc. in the renegotiation of the Company's collective bargaining agreements which are set to expire on August 31, 2010. The Company's first collective bargaining agreement is a multi-employer agreement with the Milk Wagon Drivers and Dairy Employees Local 584 and the Metropolitan Dairy Employers of the City of New York. The second collective bargaining agreement is the Company's local agreement with the Milk Wagon Drivers and Dairy Employees Local 584. Enclosed are two FMCS Form F7 notices pursuant to the statutory notice obligations under Section 8(d) of the National Labor Relations Act. (*See Exhibit E*)

17. As of September 16, 2012, approximately 51 utility employees were employed who had been hired between 2007 and 2010 and were governed by the Elmhurst 2007-2010 contract.

18. Elmhurst and Local 584 ultimately reached agreement on the terms of a new contract in September 2011, after fourteen months of negotiations. The terms were incorporated in a memorandum of agreement (copy of the memorandum of agreement is incorporated as (**Exhibit F**)).

19. The memorandum of agreement executed on September 21, 2011, similarly references that different terms and conditions apply to bargaining unit employees hired before and after July 18, 2007.

20. The September 21, 2011 memorandum of agreement clearly provided that the terms and conditions for bargaining unit members hired before July 18, 2007 were those in the MILA labor contract. Specifically, the September 21, 2011 memorandum of agreement states:

Employees who are members of the Union on the Employer's payroll prior to July 18, 2007 ("Existing Employees") shall, except as modified herein, continue their employment under the terms and conditions provided for by the collective bargaining agreement between the Union and MILA in effect September 1, 2011 to August 31, 2015. (**Exhibit F**).

21. A copy of the MILA Agreement referenced in the September 21, 2011 memorandum of agreement, i.e., the agreement "in effect September 1, 2011 to August 31, 2015" (the "2011-2015 MILA Agreement"), is the agreement between Local 584 and MILA that was in existence in 2005-2007 (**Exhibit A**), later amended in 2007 and 2008 (**Exhibit C**), and further amended by the memorandum of agreement dated July 14, 2011, attached as **Exhibit G**.

22. As part of the negotiations, Elmhurst and Local 584 signed an additional agreement concerning bargaining unit employees' terms and conditions of employment. This agreement, was signed on behalf of Local 584 on October 13, 2011 and Elmhurst on October 27, 2011.

23. The October 2011 memorandum of agreement shows that Elmhurst and Local 584 continued to treat the bargaining unit as two separate groups, subject to different collective bargaining agreements, except as explicitly agreed otherwise.

24. The October 2011 memorandum of agreement, a copy of which is attached as **Exhibit H**, modified the terms of the 2011-2015 MILA Agreement with respect to the wages of employees hired before July 18, 2007. It refers to two collective bargaining agreements between Elmhurst and Local 584: one "covering Union employees hired prior to July 18, 2007" and the other "applicable to employees hired on or after July 18, 2007." (**Exhibit H, ¶1**).

25. On October 30, 2011, Elmhurst and Local 584 incorporated the agreed-upon terms into a collective bargaining agreement effective from September 1, 2010 through August 31, 2015 (the "Elmhurst 2010-2015 Agreement"), a copy of which is attached as **Exhibit I**.

26. The Elmhurst 2010-2015 Agreement covers Elmhurst's utility, maintenance and pasteurizing employees, but, as before, does so through a bifurcated system dictated by an individual's date of hire. It provides that:

Employees who are members of Local 584 on the Employer's payroll prior to July 18, 2007 ("Existing Employees") shall, except as agreed to by the Union and Elmhurst Dairy as provided in this agreement, continue their employment under the terms and conditions provided for by the collective bargaining agreement between the Union and MILA in effect September 2, 2011 to August 31, 2015.

(**Exhibit I**, ¶29).

27. Thus, as was the case under the Elmhurst 2007-2010 Agreement, bargaining unit members working for Elmhurst before July 18, 2007 continue to be subject to the terms and conditions prescribed in the MILA Agreement, unless the parties specifically agreed otherwise.

28. For bargaining unit members hired on or after July 18, 2007, the terms and conditions set forth in the Elmhurst 2010-2015 Agreement govern. As of September 16, 2012, the Company employed an additional 5 employees under the Elmhurst contract which were hired between the expiration of the 2010 agreement and the signing of the new agreement on October 30, 2011. Thus, as of September 16, 2012, the number of utility employees working under the Elmhurst contract who had been hired prior to the signing of the current agreement on October 30, 2011, was approximately equal to those working under the MILA agreement who had been hired prior to July 18, 2007 (56 employees under the Elmhurst agreement; 55 employees under the MILA agreement).

THE UNDERLYING DISPUTE

29. On August 20, 2012 Elmhurst notified the Union of its dire economic situation and sought to meet to discuss a possible solution (see **Exhibit J**). On August 29, 2012 the Company and Local 584 met to discuss the Company's financial situation. Regretfully as a

result of these discussions and in spite of ongoing efforts by the Company, no solution was reached.

a. Issues discussed at the August 29 meeting included:

- (1) Elmhurst's breach of the bank covenants for its \$32 million dollar bank debt under its loan agreements. As stated in the August 20 letter:

The deadline for Elmhurst to report July's breach to the banks and present the banks with an action plan for curing the breach and righting its financial condition is September 15. (*See Exhibit J*, p. 3.)

- (2) The constant decline in sales volume in every year since 2006.
- (3) A new buyout agreement which the Company was willing to offer employees who were hired prior to July 18, 2007 (*see Exhibit K*). Under this buyout agreement, the "existing employees" could receive upwards of \$50,000 plus health insurance coverage for six months if they accept the buyout. Because of the substantial difference between the average hourly rate of the "existing employees" and those hired after July 18, 2007, the buyout cost could be amortized rather quickly. The parties agreed at that meeting to present it to bargaining unit employees the following day, which was done. The Company had hoped that a substantial number of employees would accept the buyout, but only two did as of September 16, 2012.
- (4) The parties discussed the Company's efforts to have one of its dealers, who was a signatory to the MILA agreement, hire the "existing employees." The Company was in the midst of complex negotiations with this dealer and it was hoped that as part of the overall contractual arrangement, a substantial number of these employees would be hired. Such negotiations have not proven to be success.
- (5) The Company had been hiring many employees under the Elmhurst contract. There were several purposes for doing so which were discussed at the meeting. First, it was hoped that many of the "existing employees" would accept the buyout and would need to be replaced; second, such employees, it was hoped, would become employees of the dealer with whom the Company was negotiating; third, the Company wanted to eliminate over 600 hours per week of overtime which was currently being worked by

bargaining unit members; fourth, seasonally the Company has to increase its ranks to meet the increase demand of processing milk for all the New York schools, which were open shortly after Labor Day; fifth, it was explained that the Company has to hire three to four individuals in order to have one which turns out to be successful.

The Company, of course, was not successful with either its buyout or its negotiations with the dealer by the bank reporting date of September 15, 2012.

30. On or about September 16, 2012, Elmhurst instituted its remaining option, layoffs from its ranks of utility employees (Group 2 – see **Exhibit A**, p. 51) as a result of the company's financial condition and the need to reduce its average hourly labor costs.

31. In order to most effectively address its economic challenges while still maintaining operations, Elmhurst chose to conduct layoffs under the contract governing bargaining unit employees hired prior to July 18, 2007, i.e., the group of bargaining unit employees who receive the higher wages and more generous benefits prescribed by the 2011-2015 MILA Agreement.

32. Forty-two (42) utility employees with the least seniority under that contract were selected for layoffs in accordance with the procedures set forth in the 2011-2015 MILA Agreement. Fifteen (15) more senior utility employees, maintenance employees, pasteurizers hired prior to July 18, 2007 and subject to the MILA terms and conditions of employment were not laid off.

33. On September 16, there were several conversations between Jay Valentine, the Company's Vice President and General Manager, and the Union President, Frank Wunderlich, as well as conversations between the union attorney, John Driscoll and the Company's attorney, Robert Doren. Mr. Wunderlich was aware that the Company was offering one week's pay in lieu of one week's notice of layoff as provided in the MILA contract and further that the Company

was willing to pay the first six months of COBRA health insurance premiums for the individuals who were laid off.

34. In the afternoon of September 16, Mr. Valentine, the Company's Vice President and General Manager, met with Mr. Wunderlich, the Union President, and two other union officials, along with Mr. Doren. The union asked how the Company proceeded with the layoff of the 42 individuals. It was explained to the union that under Paragraph 29 of the Elmhurst contract, "existing employees" are governed by the seniority provision under the MILA agreement and that the layoffs were in accordance with the least seniority within the utility classification under the MILA contract and that the Company had not laid off the top 15 senior utility employees, mechanics, pasteurizers, all working under the MILA contract.

- a. During such meeting, the Union President verified that the Company was willing to pay the first six months of the COBRA health insurance premiums. The Company said that it was. At no time did the Union President object to this offer or otherwise demand to negotiate regarding the terms of any effects of the layoff. In fact, he seemed pleased that at least the employees would receive such coverage. (The parties contractually provide for six months health insurance coverage upon layoff for Group 1 employees – Route Craft employees (*see Exhibit A*, p. 37). Also, the Company had provided a similar benefit under the separation agreement (*see Exhibit K*)).
- b. Also during this meeting, the Union President verified that the Company was paying the laid off employees one week's pay in lieu of notice. The MILA Agreement provides:

The Employer shall give one week's written notice of layoff to each employee, except to temporary or probationary employees, and if he fails to give such notice, he shall be responsible for one week's pay. (*See Exhibit A*, p. 3.)

The Company gave each employee laid off under the terms and conditions of employment were governed under the MILA contract one week's pay in lieu of notice as provided in the collective bargaining agreement. Accordingly, the Company claims that notice was not required because the contract specifically provides that in lieu of notice the Company may pay one week's pay which it did.

35. Not only did the union not object to the health insurance coverage continuation but it expedited processing of such coverage without objection. During the conversation between Jay Valentine and the Union President, Mr. Valentine asked the Union President how this benefit would be implemented. The Union President said that he did not know but would contact the administrator of the Welfare Fund to find out. On September 17, 2012, Mr. Wunderlich spoke to Mr. Valentine to discuss procedurally how the Company would make payment for the COBRA health insurance premium. The union put Mr. Valentine in contact with Lana Gritsenko, an administrator at the Local 584 Welfare Plan to arrange for such payment. Again, there was no objection to the Company's offer. On September 18, 2012, the Company received the invoice from the Local 584 Welfare Plan which contained a bill for the COBRA payments which were paid the same day. It would go into effect October 1, 2012. (*See Exhibit L*). The Company could not have been able to implement this benefit without the union assistance. The first time that the Company was aware that the union was objecting to the COBRA benefits was on September 19, 2012, when it received the union's demand to arbitrate from the union attorney. (*See Exhibit M*). The union has never demanded to negotiate the effects of the layoffs. The notice of arbitration specifically makes reference to the 42 utility employees laid off, "out of seniority with paid COBRA benefits," claiming that, "This action violates the Teamsters – Elmhurst CBA."

36. PAST PRACTICE.

- a. The Company's payroll department maintains data from which seniority lists may be generated. The union steward administers the seniority list when employees select their vacation, are considered for job postings or are assigned overtime. The Company gives the steward a calendar with available slots for vacation and the number of weeks of vacation each employee is entitled to based on his date of hire. The steward on his own contacts employees for their selection. The Company does not care which

employees select which week; only limits the number of employees per week. The Company is not involved in the process.

- b. With regard to job postings, only those employees covered under the MILA contract have job posting rights; there is no such contractual right under the Elmhurst contract. (*See Exhibit A*, p. 56.) Procedurally, the union steward determines when there is a vacancy and asks the Company whether it intends to fill it. If so, the union steward posts the job openings and advises the Company who is the successful bidder. Since employees hired after July 18, 2007 have no seniority rights to such job vacancy, the issue, regarding the relative seniority rights between those hired before and after July 18, 2007, does not come into play.
- c. Similarly, with regard to overtime assignments, only those employees covered under the MILA contract can claim overtime opportunities; there is no such contractual right under the Elmhurst contract. (*See Exhibit A*, p. 36.)
- d. Recently, the union raised the seniority issue of training new employees (those hired after July 18, 2007) “out of seniority.” The Company responded to the union that under the Elmhurst contract, there is no such seniority right to provide training in the order of seniority. The union, while disagreeing, did not grieve the Company’s actions in this regard.
- e. The Company has never had layoffs since 2007, when the Elmhurst contract was created and thus there is no practice involving the application of the seniority provisions during layoffs as occurred in this case.

37. On September 20, 2012, the Company responded to the union’s demand to arbitrate indicating that the demand to arbitrate was premature, since the union had not filed a grievance or otherwise pursued the grievance procedure (*see Exhibit N*).

38. On September 25, 2012, Mr. Doren, the Company attorney, was e-mailed a notice from the American Arbitration Association (“AAA”), together with a list of arbitrators. The notice was issued pursuant to the union’s demand for arbitration submitted to the AAA (*see Exhibit O*).

39. On September 26, 2012, Mr. Doren received another e-mail from the AAA advising the Company that the union had withdrawn its demand for arbitration (*see Exhibit P*).

40. However, on the same day the union submitted a grievance to the Company via letter dated September 24, 2012, received on September 26, 2012 (*see Exhibit Q*).

41. The union obviously realized that its demand for arbitration was premature as stated in the Company's September 20 letter (**Exhibit N**) and thus filed the grievance which had not previously been processed. The grievance claims that the Company breached the collective bargaining agreement by:

- a. Laying off 42 employees without notice and by providing paid COBRA coverage to such employees; and
- b. Hiring new employees without first recalling laid off employees.

These acts allegedly violated Section 4(b) – (c) of the MILA contract and Section 13(e) of the Elmhurst contract.

42. The alleged violations of the collective bargaining agreement, which the union has grieved, are identical to the allegations contained in the charge in the above-entitled matter. Pursuant to the union's grievance, the union wishes to proceed to arbitration.

43. On September 28, 2012, the Company answered the grievance, indicated that it did not believe that it had violated the collective bargaining agreement but pursuant to the grievance and arbitration procedure offered to meet on October 3, 2012 to discuss various issues (*see Exhibit R*).

44. The union replied that the October 3, 2012 date was acceptable,

To discuss our grievance we have filed with respect to the layoff of 42 senior employees out of seniority order. (*See Exhibit S*).

45. The parties met on October 3, 2012 pursuant to the terms of the grievance procedure. Following the meeting of October 3, the Company issued its written response pursuant to the terms of the grievance procedure. (*See Exhibit T*.)

46. The union did file its demand to arbitrate with the American Arbitration Association. Pursuant to the rules of that Association, an arbitrator was selected and the arbitration is scheduled for February 26, 2013 before Arbitrator Jeffrey Tener. (*See Exhibit U.*)

Dated: Buffalo, New York
December 21, 2012

/s/ Robert A. Doren
Robert A. Doren, Esq.

EXHIBIT A

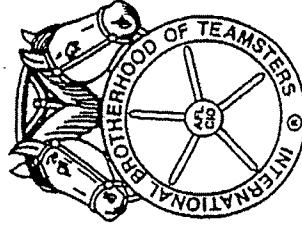
AGREEMENT

Between

MILK WAGON DRIVERS AND DAIRY EMPLOYEES
LOCAL 584
International Brotherhood of Teamsters

And

THE METROPOLITAN DAIRY EMPLOYERS
OF THE CITY OF NEW YORK



July 1, 2005 to June 30, 2007

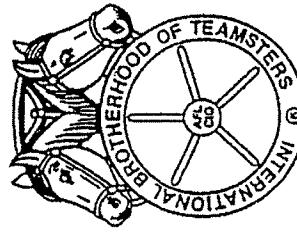
AGREEMENT

Between

**MILK WAGON DRIVERS AND DAIRY EMPLOYEES
LOCAL 584**
International Brotherhood of Teamsters

And

**THE METROPOLITAN DAIRY EMPLOYERS
OF THE CITY OF NEW YORK**



July 1, 2005 to June 30, 2007

MILK INDUSTRY
COLLECTIVE BARGAINING
AGREEMENT

July 1, 2005 to June 30, 2007

THIS AGREEMENT, made this 7th day of July, 2005, between MILK DRIVERS & DAIRY EMPLOYEES LOCAL NO. 584, located at 73 Hudson Street, 2nd Floor, New York, N.Y. 10013 (hereinafter referred to as the "Union") and the MILK INDUSTRY LABOR ASSOCIATION OF NEW YORK (hereinafter referred to as the "Association") for and on behalf of the Association's members (hereinafter referred to as the "Employer(s)").

William J. Whelan
President
Secretary-Treasurer
Frank Wunderlich
Vice-President
Recording-Secretary
Richard Reszka
Charles Brady
Shawn Dunn
Thomas Helly
Anthony Nelson
Steven DiLorenzo
Business Representative

WITNESSETH:

WHEREAS, it is the desire of the parties to this Agreement to establish, promote and foster a relationship that will be enduring and of mutual advantage to both the Union and the Employers,

NOW THEREFORE, the parties hereto agree as follows:

1. TERMS.

This Agreement shall commence July 1, 2005 at 4:01 p.m., and shall continue in effect until June 30, 2007 at 4:00 p.m.

Each party shall submit to the other, by certified mail, at least sixty (60) days prior to the termination date, notice of its demands and proposals for a new agreement. Such notices shall be addressed to the Association at c/o Richard M. Namek, 375 North Broadway, Suite 208, Jericho, N.Y. 11753 and to the Union at 73 Hudson Street, 2nd Floor, New York, N.Y. 10013.

2. COVERAGE.

This Agreement shall cover every employee of the Employer employed in or about a milk distributing branch, pasteurizing plant, and garage in the Metropolitan Area, as defined in paragraph 3 hereof, excluding, however, the following classifications of employees:

Branch Managers, Assistant Branch Managers, Plant Superintendents, Plant Assistant Superintendents, all non-working Foremen, Garage-Superintendents, Garage Assistants, Garage Foremen, Supervisors of Credits and Collections, Sales Supervisors, Stores Department, Canvassers, all clerical help, Sanitary Inspectors, Chief Electricians,

Laboratory Technicians. These exclusions shall apply, except where the Union validly represents the employees of an Employer within any of these categories, whereupon the parties will negotiate for an agreement to cover said employees. In no event shall any Union employee be required to work with a non-Union man who under this agreement is required to be a member of the Union.

If any Employer should move its plant to any other location within the Metropolitan Area, or should move its depot or other facility to any other location within the Metropolitan Area, or without the Metropolitan Area if the depot or facility is to be used for distribution within the Metropolitan Area, this contract shall remain applicable and shall cover the employees at the new location.

3. DEFINITION OF METROPOLITAN AREA.

The Metropolitan Area consists of the following: The City of New York, and the Counties of Nassau, Suffolk, Westchester and Rockland, in the State of New York; that portion of the County of Fairfield in the State of Connecticut lying south and west of a line projected from Fairfield northwesterly to the nearest point on the New York State line; the counties of Hudson, Bergen, Passaic, Essex, Union, Middlesex, Somerset and Morris in the State of New Jersey, and that portion of Monmouth and Ocean Counties in the State of New Jersey bordering on the Atlantic Ocean, including the coastal area designated as the north shore resort section, and the municipalities of Morgan, Keyport, Red Bank, Long Branch, Asbury Park, Toms River and points south to Brigantine Inlet, which separates the Counties of Ocean and Atlantic, in the State of New Jersey.

4. HIRING POLICIES.

(a) UNION SECURITY

Throughout the term of this Agreement, all employees shall be required as a condition of employment, to become members of the Union on and after thirty (30) days following the beginning of employment or the date of the execution of this Agreement whichever is later.

(b) LAYOFFS, REHIRINGS.

It shall be the responsibility and obligation of the Employer to recall men laid off through no fault of their own, in order of their company seniority in their respective crafts, for a period of three (3) years from the date of layoff, to fill vacancies as they occur in the company in which they have seniority as follows:

With regard to employees who have been laid off, one week's notice must be given to them by the Employer that is offering them reemployment. The employees so notified must thereupon give the Employer that recalls them, notice by certified mail within 48 hours after being recalled as to whether or not they intend to accept reemployment. If no

such 48-hour notice by certified mail is received by the Employer, and they do not report within one week from notice, then such recalled employees shall lose their rights to reemployment under the seniority provisions under this Agreement. A copy of the recall notice shall be sent by the Employer to the Union by certified mail, and unless the Union notifies the Employer within ten days after receipt thereof in writing, by certified mail, of any objections to the said recall notice the same shall be binding upon the employees and the Union and the Employer shall not thereafter be responsible for any errors therein.

The Employer shall give one week's written notice of layoff to each employee, except to temporary or probationary employees, and if he fails to give such notice, he shall be responsible for one week's pay.

(c) LAYOFFS AND RE-HIRINGS WITHIN INDUSTRY.

When the list of laid-off employees of the Employer has been exhausted, the Employer shall next recall the laid-off employees in the over-all unit consisting of all Employers who are parties to this Agreement with the Union, such employees to be recalled in the order of their seniority in their respective crafts within such over-all unit. The Union and the Employers shall establish and maintain such over-all seniority list upon an impartial and nondiscriminatory basis at all times.

As long as the industry-wide recall list includes employees laid off because of plant closing, and who have not been recalled or offered opportunity for recall since their plant closed, bidding between crafts shall be suspended. The Union shall notify the Employer, in writing, that such a condition exists.

(d) NEW EMPLOYEES

Whenever additional employees are required the Employer shall immediately notify the Union of such need, and said notice shall be given at least forty-eight (48) hours before the Employer interviews any applicants, except in the event that the Union, upon request of the Employer, is able to send applicants for interview sooner, in which case the Employer is free to interview both Union and non-Union applicants, and except in an emergency, in which case the Union will cooperate in all reasonable respects to assist the Employer in maintaining normal operations. Without discrimination as to any applicant by reason of membership or non-membership in the Union, or in any other respect, the Employer shall permit all applicants furnished by the Union to submit their qualifications for the available positions, and subject to the foregoing, the Employer, after the 48 hour period, shall have the right in his absolute discretion to hire or to reject any applicant without recourse, it being understood and agreed, however, that all employees on the Employer's seniority list shall be rehired, as above provided, before other applicants are considered. In selecting applicants to be sent for such interviews the Union shall act upon a non-discriminatory basis (with respect to membership or non-membership in the Unions) and shall not be guided by or in any way affected by union membership, by-laws, rules, regulations, constitutional provisions or any other aspect or obligation of union

membership, policies or requirements. Copies of this paragraph shall be posted in places where notices to employees and applicants for employment are customarily posted.

(e) NEW EMPLOYEES, PROBATIONARY PERIOD.

For the purpose of this entire Section 4 only, any employee not on the Employer's seniority list, shall be considered a new employee and shall, for a period of ninety (90) days, be on trial subject to dismissal in the sole judgment of the Employer at any time within such ninety (90) days without recourse provided that for new employees not previously employed in the Milk Industry in any capacity, who are employed as retail routemen pursuant to page 28, paragraph 13, shall be on a trial subject to dismissal in the sole judgment of the Employer for a period of 45 days without recourse. The superintendent or man in charge shall immediately, upon employment, notify the Shop Steward, or the Union if there is no Shop Steward, of the employment of any man who, under this Agreement, is required to be a member of the Union. Upon notice from the Union that any employee who has been employed for more than thirty (30) days has failed to tender the periodic dues and initiation fees uniformly required as a condition of acquiring and retaining membership, the employer agrees to discharge such employee within seven (7) days after receipt of written notice from a properly authorized official of the Union.

5. WAGES.

The schedule of wages to be in effect during the term of this Agreement is set forth in Schedule "A", attached hereto and made a part hereof.

6. RULES, SENIORITY, PENSION AND WELFARE.

The general rules, seniority rules, vacation rules, security deposit Agreement, and details regarding the pension and welfare program and retail operations to be in effect during the term of this Agreement are set forth in Schedules "B", "C", "D", "E", and "F", respectively attached hereto and made a part hereof.

7. SALES, COMMISSION.

The Union agrees that it will lend its support to the furtherance of sales activities. The commission rate to be paid for products distributed on retail routes under the traditional method of operation shall be as follows: Products listed under Schedule "H"- 2 1/2%. All other products - 10%.

8. CHANGES.

(a) NOTIFICATION

Before any change in the production or distribution methods or operations of the Employer which may affect employees covered by this contract is effectuated by the

Employer, the Employer shall first notify the Union in writing by certified mail at least ten (10) days prior to the proposed change and explain the reasons that prompted the proposed change and its probable effects.

(b) SALE OR LEASE OF ROUTES.

The Employer shall not sell any of its retail or wholesale routes to any of its employees and shall not lease its retail or wholesale routes to any person. In the case of persons other than employees, the Employer shall not, during the term of this Agreement, sell any of its retail or wholesale routes except to a purchaser who will execute this Agreement and who will employ routemen subject to the terms and conditions of this Agreement. In the event the Purchaser fails to execute such an Agreement, the Employer shall be fully responsible for damages to the Union, provided, however, that if the Purchaser executes this Agreement, the Employer shall have no further obligation or liability under this Agreement except for matters occurring prior to the execution of the Agreement by the Purchaser. Routes that were heretofore leased or sold, shall upon release to the Employer or resale to the Employer or any other person, be classified as Company Routes and shall be subject to the terms of this Agreement.

(c) SERVICE OF ROUTES.

For the duration of this Agreement the Employer shall not reduce the number of days on which any wholesale route shall operate. Within thirty (30) days after the date of the signing of a memorandum agreement, the Employer may submit a written list, signed by him, of non-commission routes to which the foregoing should not apply, updating the list submitted by December 1, 1976. The Union shall have the opportunity to review the list and discuss it with the Employer. If agreement is not reached with respect to said updated list, the matter shall be subject to arbitration. Routemen shall work five (5) days per week, forty (40) hours per week. Employers may serve stops any number of days per week in any manner. There shall be no restriction on the number and/or size of deliveries to customers per week.

For the purpose of this paragraph only, any fluid milk substitute containing approximately 1% butterfat, such as Light 'n' Lively low fat milk and Lite Line low fat milk, shall be included within the foregoing restrictions applicable to milk.

In consideration for the right which permits an Employer to reduce the number of days on which any retail home delivery route shall operate to six, the Employer agrees that the retail route craft employees covered by the provisions of this contract who were on the active payroll of the Company on October 24, 1965 at 4:00 P.M. will not be laid off during the period of this Milk Industry Collective Bargaining Agreement, subject to the following limitations:

(1) This provision shall terminate in the event that the Employer, voluntarily or involuntarily, goes out of business.

(2) In the event that the Employer in good faith sells all or part of its business, it shall be relieved of the requirements of this provision provided that the Purchaser of all or part of its business (as the case may be) executes this Agreement and becomes a party hereto.

(3) If work is not available for a retail route craft employee who qualifies as an employee who may not be laid off under this section, he shall nevertheless be paid at a rate equivalent to his weekly average earnings for the previous four weeks, for the work to which he is assigned.

(d) The problem of the number of days upon which retail vending routes shall operate shall be investigated by the Union. The Employer shall cooperate in such investigation by making available to the Union such records as it may require. After investigation, the entire question shall be discussed between the parties involved. If the matter cannot be resolved, it will be submitted to arbitration hereunder. In addition, if companies now operating seven days a week propose to the Union that they must go on a six-day operation for economic reasons, the matter shall be investigated and discussed between the parties involved. If the question cannot be resolved, it will be submitted to arbitration hereunder. Pending resolution of this matter, companies now operating six days must utilize retail vending route riders.

(e) (A) In order to protect the job opportunities and labor standards of all employees covered by the Milk Industry Collective Bargaining Agreement, it is agreed that all whole fluid milk distributed in the Metropolitan Area by the Employers covered by this Agreement (including whole fluid milk delivered to or picked up by any other dealer or person for ultimate distribution within the Metropolitan Area, whether or not the point of sale or delivery by the Employer is within the Metropolitan Area) must be bottled, packaged, pasteurized and processed ("hereinafter referred to as processed") by employees working under this Agreement in the said Metropolitan Area, except that:

1. Johanna Kosher Milk shall not be deemed within the scope of this paragraph 8(e), and;

2. Those Employers now or hereafter obtaining milk from the Yonkers, New York plant of Dellywood Dairy Co., Inc. shall not be deemed in violation of this paragraph 8(e) so long as such milk is processed under the terms and conditions of employment at least as favorable to employees as those set forth in this Agreement, and;

3. In the event an Employer loses the necessary health permits or other licenses for any market in the Metropolitan Area, it shall not be deemed a violation of this Section for such Employer to obtain milk approved for such market from another plant not covered by this Agreement in order to supply the business existing at the time of the

loss of such permit or license, until such necessary health permits or other licenses have been reacquired; provided, such Employer shall in good faith, promptly comply with the requirements of the licensing authority and make all necessary applications so as to reacquire such health permits or other licenses as promptly as possible. During the period while such applications are pending and milk obtained from another plant not covered by this Agreement is being distributed in such market by the Employer, such Employer shall not lay off any employee covered by this Agreement, and the restrictions set forth in this paragraph with respect to service of routes shall not apply to any ultra high temperature and/or aseptically packaged milk and milk products which do not require refrigerated distribution.

(B) In the event that any person, firm, entity or corporation other than a signatory to the Milk Industry Collective Bargaining Agreement should, after the date of this Agreement, initiate distribution or obtain a license to sell or distribute in any county or portion thereof within the Metropolitan Area, any milk or milk products processed and/or distributed under terms and conditions of employment less favorable to employees than those set forth in this Agreement, the Association may, upon request of any Employer or Employers where business may be directly and substantially adversely affected by the aforesaid distribution and covered by this Agreement, request re-negotiation of this Section by sending written notice to the Union. In such event, the Association and the Union shall meet promptly for such re-negotiation which shall be subject to mutual agreement. In the event of failure to reach agreement after reasonable discussion the matter shall be subject to binding arbitration pursuant to the general arbitration clauses contained in the Agreement.

(C) Neither the limitation of paragraphs A or F hereof to the products set forth therein nor the negotiations which preceded agreement upon such limitation shall be deemed either to have enlarged or diminished the rights and obligations of the parties which existed under the Agreement between them which expired October 24, 1967 or under law, with respect to the distribution, handling or processing of any other products, and it is agreed that all such rights and obligations shall continue during the term of this Agreement.

(D) If an Employer that now has no physical plant facilities subsequently becomes unable to obtain processing facilities from any other Employer covered by the Milk Industry Collective Bargaining Agreement, the Association shall, upon the request of any such Employer, request a meeting with the Union for the purpose of obtaining appropriate relief. In the event of disagreement, the matter shall be subject to arbitration in accordance with Section 16 of this Agreement.

(E) In the event an Employer is unable in whole or in part to operate or use processing facilities because of fire, flood, storm, earthquake, explosion, riot or insurrection, act of war, or eminent domain, and is unable to obtain processing facilities (a) from another plant or plants covered by this Agreement in the Metropolitan Area, or (b) if not available under (a), from another plant or plants in said Area where such

processing is performed by employees employed under terms and conditions of employment at least as favorable to employees as those set forth in this Agreement, the Association shall, upon request of any such Employer, request a meeting with the Union for the purpose of obtaining appropriate relief. In the event of disagreement, the matter shall be subject to arbitration in accordance with Section 16 of this Agreement. Pending such meeting and arbitration, if the Employer is unable in good faith to obtain processing in the manner described in (a) or (b) above, he shall be permitted to obtain such processing elsewhere to the extent necessary to preserve his business, subject, however, to such award as the arbitrator may render with respect to the right to continue to obtain such processing.

(F) In the event of a claim by the Union that an Employer who is presently processing or having processed for him skimmed milk, buttermilk, chocolate milk or chocolate drink in the Metropolitan Area, has transferred such processing in whole or in part outside of the Metropolitan Area for distribution in the Metropolitan area and that a loss of jobs covered by this Agreement has occurred or is threatened as a result thereof, then the Union shall have the right to reopen this Section of this Agreement concerning the above products. In the event the Union and the Association are unable to settle the matter within ten days after written notice of reopening is given to the Association by the Union, the matter shall be subject to arbitration pursuant to Section 16 of this Agreement.

This paragraph F shall not apply to a transfer of volume in any of the above products where such transfer is made in order for an Employer to comply with any law or regulation governing the place where processing must be performed.

9. STEWARDS

(a) There shall be a Steward or Stewards, but not more than one for each craft per shift, at every Delivery Branch, Pasteurizing Plant, and Garage to see whether the members of the Union and the Employer live up to the provisions of this Agreement and the rules of the Union, not inconsistent with this Agreement, and to report any infraction of such provisions and rules to the Superintendent who shall promptly correct them. Such Steward or Stewards shall be selected by the Union and each shall be an employee of the place in which he is Steward. There shall be no discrimination against Stewards for Union activities. The Steward shall have no authority to alter, amend, violate or otherwise change any part of this Agreement. The Steward shall report to the Business Agent of the Union any violation of this Agreement.

(b) The Steward shall be considered the senior employee in the craft in which he is employed, and if here is more than one Steward, seniority, as between the Stewards shall be based on their Company seniority. The Superintendent or Branch Manager shall recognize the Steward as a representative of the Union locally, and shall inform him, prior to the laying off of employees, and of all union personnel changes. The Shop Steward shall bring to the attention of the Employer's representative, as provided in paragraph 9(d) hereof any hardships on any employee. The Employer shall entertain no

complaint involving an alleged breach of any provision of this Agreement until the complaining party has given a written statement of such complaint to the Steward or delegate.

(c) A Shop Steward who notifies management of his intended absence from work in the performance of any union duties during the calendar day preceding such absence shall have an absolute right to so absent himself. Failing to give such notice, a Shop Steward may absent himself from work only if he has received the permission of management or has arranged for his replacement by a qualified member of his craft. Management agrees that such permission shall be granted to Shop Stewards as a matter of course, save in emergencies or unless management cannot by the exercise of reasonable diligence provide adequate replacements.

A Shop Steward shall also be entitled to be absent for a reasonable period for Union business, provided the Employer shall have been notified by an officer of the Union in writing as provided above of such intended absence.

(d) Any employee shall file any grievance he may have, in writing, with the Shop Steward within 3 days after the grievance has occurred. The Union may file a grievance within thirty (30) days after the grievance has occurred. This, however, shall not apply to Section 15 of this Agreement. The case shall be presented to the Superintendent, Branch Manager, or Employer's representative in charge of the branch, in writing, whose answer shall be given, in writing within 3 days. If the Shop Steward and the Superintendent, Branch Manager, or Employer's representative cannot arrive at an adjustment of the grievance, the delegate shall be notified immediately and shall, within 3 days consult with the Shop Steward, Superintendent and the man or men involved and endeavor to adjust the matter. Appeals necessary on the grievances not adjusted locally shall be made by the delegate as follows:

(1) In the case of retail branches to the General Manager or operating head of the Division wherein the branch is located or to other Employer representatives. In the case of wholesale branches, to the Supervisor of Wholesale Sales, or other Employer representatives.

(2) In the case of Pasteurizing Plants or Garage, to the Superintendent or Supervisor in charge, or to other Employer representatives.

(3) The Union and its representative shall have the right to originate a complaint in writing other than through an employee or Shop Steward and to seek adjustment with the Employer in the manner provided in this provision.

(4) Decisions on such grievances not adjusted locally shall be made within 5 days after they have been presented by the delegate.

10. The duly authorized officers and business agents of the Union shall be permitted to enter the Employer's premises during all working hours. Duly authorized representatives of the Union (Delegates) shall have access to all time cards, platform loading sheets and time clocks and all relevant original payroll records of the individual employee involved. If the Employer claims that an employee is short, the Union representative shall, upon his request, be furnished with necessary records relative to such shortage.

11. DUES CHECK-OFF AUTHORIZATION

(a) The Employer, if authorized by each individual employee, will deduct from his wages a sum equal to such employee's initiation fees and dues to the Local and remit the same to such Local at such times as mutually agreed upon, it being understood that this provision is subject to all the applicable requirements of the Labor-Management Relations Act, 1947, as amended.

(b) All check-off authorizations signed prior to midnight October 24, 1947 will remain in effect after that time as revocable check-off authorizations and may be revoked by the employee at any time.

(c) Authorizations signed on or after October 25, 1947 may be revoked following the expiration date of this Agreement or after one year from the date of authorization, whichever occurs sooner.

12. PICKET LINES

(a) It shall not be the duty of any employee nor shall any employee at any time be required to cross a lawful primary picket line, and refusal of an employee at any time to cross a lawful primary picket line shall not constitute insubordination or cause for discharge or any disciplinary action.

(b) The Employer shall maintain conspicuously posted, at places where the same shall be plainly seen by all employees covered by this Agreement, notices addressed to such employees reading as follows:

"Notice To All Employees Covered by Milk Industry Collective Bargaining Agreement
The Agreement provides:

It shall not be the duty of any employee nor shall any employee at any time be required to cross a lawful primary picket line, and refusal of an employee at any time to cross a lawful picket line shall not constitute insubordination or cause for discharge or any disciplinary action."

(c) The foregoing shall be operative only to the extent permitted by law. Nothing herein contained shall be construed to be a contract or agreement, express or implied, which in any manner violates any Federal or State law as presently enacted, or as amended or interpreted during the term of this Agreement.

(d) In any event, however, to the extent that this section shall be determined by a court of competent jurisdiction in any manner to violate Federal or State law as presently enacted, or as amended or interpreted during the term of this Agreement, this section shall be inoperative, unenforceable and void.

13. DISCIPLINE OR DISCHARGE

(a) The Employer may discharge or dismiss any employee for good cause upon one week's notice or one week's pay in lieu of notice, except that the Employer shall have the right of summary dismissal or discharge upon any one of the following grounds:

- A. Dishonesty.
- B. Under influence of liquor or drugs, while on duty.
- C. Unauthorized persons on vehicles.
- D. Violation of local or State health code.
- E. Direct refusal to obey orders given by the proper party unless such orders jeopardize life or health.
- F. Book shortage of \$75.00 or more.
- G. Willful destruction of property.
- H. Failure to report promptly and honestly accidents or personal injuries.

In all cases involving the discharge, dismissal or disciplinary layoff of an employee, the Employer will, in writing, notify the employee and the Shop Steward immediately of such action and the reasons therefor. The Union will be notified, in writing, of said actions and the reasons therefor by the Employer within three (3) working days thereafter. Unless a grievance shall be filed within seven (7) working days after such notice shall be given, the grievance shall be deemed waived.

(b) Any employee discharged must be paid in full for all wages owed him by the Employer, including earned vacation pay, if any, within ten (10) days from the date of discharge.

14. Should the Union at anytime hereafter enter into an agreement with any milk company operating within the Metropolitan Area served by the Employer party to this Agreement, with terms and conditions more advantageous to such milk company, or should the Union in the case of any Milk company which has signed this form of agreement countenance a course of conduct by such company enabling it to operate under more advantageous terms and conditions than is provided for in this Agreement, the Employer, party to this Agreement, shall be privileged to adopt such advantageous terms and conditions provided (1) the Employer has sent written notice to the Union calling the matter to its attention; and (2) an arbitrator, appointed pursuant to Paragraph 16 hereof, has ruled that such more advantageous contract has been entered into or ruled that such milk company is operating under more advantageous terms and conditions than is provided for in this Agreement; the nature and extent of the more advantageous terms and conditions; and that the Union has countenanced the same. If more advantageous terms or conditions are made available for any operations in Nassau-Suffolk Counties, then the same shall be available to all Employers for such operations in Nassau-Suffolk.

In the event that during the period of this Agreement, the Union enters into a contract with an employer newly organized by the Union, which contains more advantageous terms, the foregoing shall not be effective as to that contract until twelve (12) months after the signing of the first Agreement, provided a copy of such contract is filed within ten (10) days after signing with the Milk Industry Labor Association of New York.

15. The Employer and the Union agree that no employee or group of employees shall have the right to modify or waive the provisions of this Agreement. The Union shall be entitled to recover in its own name and behalf the full amount which any employee who waives or attempts to waive the provisions of this Agreement would otherwise be entitled to recover, provided that such recovery by the Union shall not cover any period earlier than 90 days preceding the date of notification in writing to the Employer by the Union of such claim.

16. ARBITRATION

- (a) Any and all disputes and controversies arising under or in connection with the terms or provisions of this Agreement, or in connection with or relating to the application or interpretation of any of the terms or provisions hereof, or in respect to anything not herein expressly provided but germane to the subject matter of this Agreement, except for a grievance concerning the discharge of an employee, which the representatives of the Union and the Employer have been unable to adjust, may be submitted for arbitration to an arbitrator selected from a list provided by the American Arbitration Association, provided that written request for arbitration is made by the Union or the Employer no later than thirty (30) days after decision in the final step in the grievance procedure. The arbitrator shall not have any power to add to, subtract from, alter, change or modify any terms of this Agreement.

An arbitrator hearing a dispute hereunder shall notify the Milk Industry Labor Association of New York and the Union at the time of any submission submitted to him and any signatory to the Milk Industry Collective Bargaining Agreement shall have the right to be present at any arbitration hearing, but the hearing shall not be delayed. The arbitrator shall send to the Union and to the Milk Industry Labor Association of New York a copy of each award rendered by him hereunder.

In the event that a party to this Milk Industry Collective Bargaining Agreement invokes the arbitration provisions of this Agreement with regard to an issue that has previously been decided by arbitration after October 24, 1963, and unsuccessfully prosecutes said arbitration, the arbitrator's fee and such other costs as the arbitrator may determine shall be assessed by the arbitrator against such party, provided that a copy of the first arbitration award has been served upon the other party by the party invoking arbitration before proceeding to arbitration.

In the event of a grievance concerning the discharge of an employee, the parties shall agree on an arbitrator to hear the case. If the parties cannot agree on an arbitrator, the arbitrator shall be selected from a single list of arbitrators provided by and under the auspices of the American Arbitration Association in New York City.

The decision of the arbitrator shall be final and binding upon the parties. The fees and expenses of the arbitrator in such cases shall be borne equally by the parties except as otherwise provided herein.

To the extent permissible under law, arbitration shall be the exclusive for money damages by the parties against each other arising under Section 303 of the Labor Management Relations Act or equivalent provisions of state law for money damages for breach of this Agreement.

In matters arising under Section 303 of the Labor Management Arbitrator shall be required to apply the same principles of law as would

- (b) With respect to any union, or portion thereof, or any employer's Agreement, having its principal office in New Jersey, doing business against whom the award or decision of the arbitrator must be enforced. In such case State of New Jersey, the designation of the arbitrator by this Agreement shall be considered as the designation of an arbitrator or umpire under the laws of New Jersey, to wit, 1937 Revised Statutes 2:40-10 to 2:40-26 or any amendments thereof. In such case the arbitrator shall, as such arbitrator or umpire, have all the powers vested in him by this Agreement, and his decisions or awards shall be enforceable as provided by the laws of New Jersey, and either party to any such decision or award shall have the right or power to cause a judgment thereon to be entered in any appropriate court of record of New Jersey, as provided by law. The procedure of arbitration shall be prescribed by this Agreement, except as required to be modified by the aforesaid law of New Jersey, and except that any and all hearings in arbitration shall be conducted within the State of New

Jersey unless all parties in interest waive this provision. All decisions or awards in such cases shall be in writing, and acknowledged or proved in like manner as a deed for the conveyance of real estate in New Jersey, and a duplicate original thereof shall be delivered to each of the parties involved.

17. NO STRIKES OR LOCKOUTS

- (a) No strikes, lockouts, walkouts, or slow-downs shall be ordered, sanctioned, or enforced by either party hereto against the other during the life of this Agreement, except as against the party failing to comply with the decision and order of any arbitrator handing down a decision or making an award pursuant to Paragraph 16 hereof.
- (b) The Union shall not call, sanction or enforce any sympathetic strike of its members, and the Employer shall not aid other companies in any fight that may be waged against the Union.

- 18. Any signatory to this Agreement shall not, after October 24, 1957, organize any subsidiary or affiliated milk company for the purpose of evading its obligations under this Agreement. If such subsidiary or affiliated company is hereafter organized for the purpose of evading obligations under this Agreement it shall be deemed a party hereto and shall assume all of the obligations of this Agreement and the original signatory to this Agreement shall also be responsible for fulfillment of the obligations of the subsidiary or affiliated company.

The Employer shall not establish, maintain or serve any subterfuge route for the purpose of evading his obligations under this Agreement.

If, after discussion between the Union and the Employer, the practice is not discontinued or the matter not settled, it shall be referred to an arbitrator selected as provided by this Agreement.

If the arbitrator shall find the existence of a violation he shall determine the extent of the violation and shall have unlimited power to, and shall impose such penalties and take such appropriate action as will be necessary to obtain and maintain compliance with this provision.

19. SEPARABILITY

- (a) If any provision of this Agreement violates any federal or state law as presently enacted or as amended or interpreted during the term hereof, such provision shall be inoperative to the extent that it is at variance with such law, but all other provisions of this Agreement shall remain in full force and effect, upon condition, however, that within ten (10) days after written demand by either party the Milk Industry Labor Association of New York and the Union shall meet to negotiate new provisions covering the subject matter previously covered by the invalid provisions. If the Milk Industry Labor

Association of New York and the Union are unable to reach agreement, the matter shall be submitted to arbitration pursuant to the arbitration provisions of this Agreement.

- (b) Sections 8(c), 8(e), paragraph 6 (General Notes on Wage Schedule) and Section 14 have been negotiated and agreed upon subject to the opinion of Special Counsel to the Union with respect to the legality thereof. If such opinion is to the effect that any of the said provisions or any part of said provisions is illegal and if an opinion or ruling to the same effect is obtained from the U.S. Department of Justice or a court of competent jurisdiction, and if the parties cannot agree with respect to such modifications as may be necessary to meet the requirements of legality, the provisions in question shall be deleted and the matter shall be subject to negotiation and arbitration in accordance with the preceding paragraph. Such negotiation and arbitration shall be subject to any pending legal proceedings wherein the legality of the provisions in question is under review.
- (c) In the event that any of provisions of Section 8(e) should be held invalid or should the enforcement thereof be temporarily or otherwise enjoined by a tribunal of competent jurisdiction, any Employer bottling, packaging, pasteurizing or processing milk by employees not working under this Agreement in the Metropolitan Area shall not discharge or lay off any employees or reduce the existing number of jobs, and in addition, shall be required to employ and may not lay off the employees of any other Employer whose jobs have been lost, directly or indirectly, as a result of such bottling, packaging, pasteurizing or processing.
- 20. The parties agree that 30 days prior to the expiration of this Agreement they will familiarize the Mediator assigned to the matter with the issues involved.
- 21. This Agreement and the terms and provisions thereof shall be binding upon the parties hereto and their successors and assigns.
- 22. The award rendered by David L. Cole, Esq., as set forth in Schedule I, is incorporated into this Agreement.
- 23. In the event that any of the employees covered under this Agreement is or becomes subject to the overtime pay provisions of the Federal Fair Labor Standards Act, or similar state or local law, the parties will renegotiate the rates of pay for such employees and if the matter cannot be resolved it shall be submitted to arbitration pursuant to Paragraph 16 of this Agreement.
- 24. At the request of the Union or the Employer at any time during the term of this Agreement, a committee of retail or wholesale employers and Local 584 shall meet for the purpose of discussing changes in the methods of retail or wholesale delivery, respectively. If agreement is reached and approved by the Association and the Union, it shall be embodied in this Agreement. If agreement is not reached, or if reached, not approved, the matter shall not be subject to arbitration.

Jr 25. In the event it is claimed by the Association that if, as a result of government regulations or fuel shortages, changes in an existing method of operations are necessary, the Union shall meet with the Employers to discuss the problem without any obligation to submit any dispute which may result from the foregoing to arbitration.

26. The parties recognize that particular problems may arise during the term of the contract that may require resolution through collective bargaining. Accordingly, either the union or the Association may request the other to convene a collective bargaining meeting for the purpose of reviewing and resolving any matter germane to the contract. Any meeting so convened shall have plenary authority to resolve any such matter, notwithstanding any provision of the contract. If such meeting fails to resolve the matter, the matter shall not be subject to arbitration, unless otherwise subject to arbitration under the contract grievance procedure, and all contract provisions shall remain unchanged.

27. Routes and Special Delivery Men operating exclusively in the state of New Jersey shall be employed under all of the terms and conditions of the contract except for the following:

(a) The wage rates as set forth in the Local 863 contract with New Jersey Milk companies shall apply, including subsequent wage increases, if any.

(b) All restrictions with respect to the size of trucks and trailers and the number of days of delivery as set forth in this agreement shall not apply.

(c) The Employer shall have the option of establishing a work week which shall consist of five (5), eight (8) hour days, or four (4), ten (10) hour days with time and one-half pay after 40 hours of work.

(d) There shall be separate seniority for employees engaged in the operation of routes and special delivery exclusively in the state of New Jersey.

(e) These exceptions to this contract shall not apply to any accounts now serviced under a Local 338 collective bargaining agreement wherein the conventional commission system of compensation for distribution employees is required.

(f) The Employer(s) shall provide a time clock for all hourly rated employees working under the above conditions, and such employees shall punch in at the beginning and end of their work shift.

28. The Association agrees that the Employer, provided that a signed authorization is received from the employee, will deduct a fixed amount which shall be designated in its authorization for a Union lobbying fund and a Union Credit Union during the period of this Agreement. One total check will be issued by each Employer to

a single address designated by the Union each month. The Employer's responsibility shall be limited solely to the aforesaid deduction and remittance.

29. If Local 584 enters into a new agreement with any other employer in the milk industry who is not covered by the MILA Agreement, and if any provision of such agreement differs from any provision in the MILA Agreement, or if any provision of the MILA Agreement is not contained in such agreement, the Employers party to the MILA Agreement shall have the option of 1. substituting the different provision from such agreement, 2. retaining the provision contained herein, or 3. in the event a provision contained herein is not addressed in such agreement, of deleting such provision from the MILA Agreement. In the event such other agreement contains any provision(s) that is not contained in the MILA Agreement, the Employers party to the MILA Agreement shall have the right to add such provision(s) to this Agreement as though it was originally contained herein, or if such provision(s) is of no value to the Employers party hereto, to substitute a provision of similar value to the Employers party hereto. In the event Local 584 fails to enforce any provision of such other agreement and such provision is included in the MILA Agreement, the Employers party hereto shall similarly not be bound to comply with said provision, or in the event the non-enforcement of the provision as to such other employer(s) has no comparable value to the Employers party hereto, the Employers party hereto shall designate a provision of comparable value herein, which provision shall not be enforced by Local 584 as against any Employer party to the MILA Agreement.

If Local 584 fails to enter into an agreement with any company in the milk industry that was covered by a collective bargaining agreement on or before November 30, 2001, then the Employers party hereto shall be allowed to adopt any terms and conditions of employment as exist at such company(ies) that are applicable to the Employer's operations and that are more beneficial to the Employer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the day and year first above written.

MILK INDUSTRY LABOR
ASSOCIATION

MILK DRIVERS & DAIRY EMPLOYEES
OF NEW YORK LOCAL NO. 584

BY:..... BY:.....
TITLE:..... TITLE:.....
DATE:..... DATE:.....

SCHEDULE "A"
WAGE SCHEDULE

RETAIL

Effective July 1, 2005, each employee to receive a clothing allowance of \$200.00 every six months, payable July 15th and January 15th of each year of this Agreement.

	<u>6/1/03</u>	<u>7/1/05</u>	<u>7/1/06</u>
Foreman	\$782.21	\$812.21	\$832.21
Route Rider	\$775.21	\$805.21	\$825.21
Vacation Relief Rider*	\$731.76	\$761.76	\$781.76
Retail Routeman			
Start*	\$722.76	\$752.76	\$772.76
3 mos.*	\$724.76	\$754.76	\$774.76
6 mos.*	\$726.76	\$756.76	\$776.76

*plus 2 1/2% on retail collections and wholesale collections

Note: See Schedule "H" for list of products bearing commission rate of 2 1/2%. All other products to bear commission rate of 10%. Retail routes with three books shall receive \$10.00 per week extra for the third book, where not being paid now.

	<u>WHOLESALE</u>	
	\$840.61	\$870.61

	<u>6/1/03</u>	<u>7/1/05</u>	<u>7/1/06</u>
Foreman	\$748.16	\$778.16	\$798.16
Route Rider:	\$854.67	\$884.67	\$904.67
commission routes*			
non-commission routes			
Vacation Relief Rider:			
commission routes*			
non-commission routes			
Routeman:	\$749.16	\$779.16	\$799.16
commission routes*			
non-commission routes			
Trailer Driver	\$744.16	\$774.16	\$794.16
	\$850.67	\$880.67	\$900.67
	\$961.20	\$991.20	\$1011.20

*Commission as set forth in Section 6

Note: Non-commission can route employees to receive an additional \$18.00. This also applies to any other kinds of routes used as substitutes or replacements for can routes.

VENDING

	<u>Retail Vending</u>	
Foreman	\$869.11	\$899.11

Vending riders employed on or before October 24, 1967 with the Company shall receive vending routeman's base pay plus 2 1/2% commission, that is:
*Base plus commissions at 2 1/2% on retail collections and 1% on wholesale collections.

SCHEDULE "A"
WAGE SCHEDULE

All employees employed on or before October 24, 1967 by the Employer in Craft Group I shall have the privilege to bid into vending at the above pay scale.

All employees so employed after October 24, 1967 shall be paid at the following base pay and commissions:

	<u>6/1/03</u>	<u>7/1/05</u>	<u>7/1/06</u>
Retail Vending Routeman			
Base			
*plus 1 1/2% commission on retail collections and			
1 1/2% commission on wholesale sales			
Retail Vending Rider Base			
Retail Vending Vacation			
Rider Base			
	\$765.16	\$792.16	\$812.16
	\$795.16	\$815.16	

WHOLESALE (VENDING)

	<u>6/1/03</u>	<u>7/1/05</u>	<u>7/1/06</u>
Foreman	\$840.61	\$870.61	\$890.61
Route Rider:			
Commission*			
Non-Commission			
Vacation Relief Rider:			
Commission*			
Non-Commission			
Routeman:	\$748.16	\$778.16	\$798.16
Commission*			
Non-Commission			
Route Rider:			
Commission*			
Non-Commission			
	\$855.67	\$885.67	\$905.67

*Vending Note: For wholesale vending routes and retail vending routes, wholesale base pay and commissions shall apply for deliveries of: all items other than milk; and ½ pints, pints, and 1/3 quarts of milk to industrial plants and other non-residential locations where the products are consumed on the premises; and retail base pay and commissions shall apply for all milk delivered to their vending machines. Retail home delivery routes serving retail vending machines shall pay retail commission for all collections made from retail vending machines. Vending machine sale on wholesale store delivery routes will receive 2 1/2% commission.

SCHEDULE "A"

WAGE SCHEDULE

<u>Pasteurizing</u>		<u>7/1/05</u>	<u>7/1/06</u>
Pasteurizing Foremen,	\$873.61	\$903.61	\$923.61
Pasteurizers, Standardizers			
General Utility			
Start	\$822.61	\$852.61	\$872.61
3 Mos.	\$828.11	\$855.36	\$875.36
6 Mos.		\$858.11	\$878.11

Maintenance Division

Maintenance Mechanic*	\$902.71	\$932.71	\$952.71
Electrical Generator Mechanic	\$902.71	\$932.71	\$952.71

*An employee to be classified as a maintenance mechanic, must be capable of performing all necessary repairs on the dairy plant machinery and equipment. A utility man who does not possess the qualifications set forth above shall not be classified as a maintenance mechanic, although he may intermittently be required to perform minor repairs or adjustments to plant equipment or machinery or assist in such work). This shall not be construed to permit maintenance mechanics' work to be done at utility men's rates as a general practice. Any abuse by either party shall be resolved by arbitration.

TRANSPORTATION

Chauffeurs			
Start	\$831.61	\$861.61	\$881.61
3 Mos.	\$835.61	\$865.61	\$885.61
6 Mos.	\$839.61	\$869.61	\$889.61

OUTSIDE UTILITY

Platform & Yard Foreman			
Min.	\$828.61	\$858.61	\$878.61
Max.	\$832.61	\$852.61	\$872.61
Special Delivery			
Start	\$828.69	\$858.69	\$878.69
3 Mos.	\$831.69	\$861.69	\$881.69
6 Mos.	\$835.11	\$865.11	\$885.11

All other General Utility Men
in Route and Platform Dept.

Start	\$822.61	\$852.61	\$872.61
3 Mos.	\$825.61	\$855.61	\$875.61
6 Mos.	\$828.61	\$858.61	\$878.61

Refrigeration Mechanics			
Start	\$837.11	\$867.11	\$887.11
3 Mos.	\$840.11	\$870.11	\$890.11
6 Mos.	\$843.11	\$873.11	\$893.11
1 Year*			
Max.	\$843.61	\$873.61	\$893.61

*Increase above the "1 year rate" shall be at the discretion of the Employer.

SCHEDULE "A"

WAGE SCHEDULE

<u>Watchmen (full time)</u>		<u>7/1/05</u>
Start	\$816.11	\$846.11
3 Mos.	\$819.36	\$849.36
6 Mos.	\$821.11	\$851.11
Car Washers		
Start	\$822.61	\$852.61
3 Mos.	\$825.36	\$855.36
6 Mos.	\$828.11	\$858.11

AUTOMOTIVE DIVISION

<u>Mechanics</u>		<u>7/1/05</u>
Start	\$817.11	\$847.11
3 Mos.	\$819.11	\$849.11
6 Mos.	\$821.11	\$851.11

VENDING

<u>Vending Machine Mechanics</u>		<u>7/1/05</u>
Start	\$831.61	\$861.61
6 Mos.	\$834.61	\$864.61
1 Year*	\$837.61	\$867.61

REFRIGERATION

<u>Refrigeration Mechanics</u>		<u>7/1/05</u>
Start	\$837.11	\$867.11
3 Mos.	\$840.11	\$870.11
6 Mos.	\$843.11	\$873.11
1 Year*		
Max.	\$843.61	\$873.61

SCHEDULE "A"
WAGE SCHEDULE

Refrigeration Mechanics Helper	
Start	\$831.61
6 Mos.	\$834.61
1 Year	\$837.61

LABORATORY	
Laboratory Technician*	
Start	\$820.61
3 Mos.	\$823.61
6 Mos.	\$826.61

*Note: This classification shall not be effective unless and until the Union furnishes satisfactory proof that it represents the majority of such employees of the Employer.

- (a) For employees hired in Craft Group II ("Utility employees") before July 1, 2005, the minimum wage and starting wage for hires in the plant shall be \$9.00 per hour less than the general wage schedule. Thereafter any Utility employee receiving less than the maximum Utility rate, as of any anniversary of his hiring date, shall on each such successive anniversary date receive an increase of \$1.00 per hour, in addition to any contracted increases in the general wage schedule. When such employee reaches the seventh anniversary of his date of hire then his hourly rate of pay shall be raised to equal, but not exceed the then prevailing maximum hourly rate for Utility. This provision shall supersede any prior agreement to the contrary. Notwithstanding anything to the contrary set forth herein, any new hire who received a \$1.00 increase on December 1, 2001 shall not receive an additional \$1.00 increase on his anniversary date thereafter if his anniversary date falls between December 1, 2001 and May 31, 2002. Any new hire whose anniversary date occurs after May 31, 2002 shall receive the \$1.00 increase referred to herein on his anniversary dates. If application of the new wage progression to Craft Group II employees hired by an Employer on or after December 1, 2001 would result in a less senior employee of the Employer receiving a higher wage rate or achieving the maximum classification rate sooner than an employee hired prior to December 1, 2001, the more senior employee shall have his wage rate adjusted by an amount necessary to maintain parity with the less senior employee.

- (b) For Utility employees hired on or after July 1, 2005, the minimum wage and starting wage shall be \$11.70 per hour. Such employees minimum and starting wages and wages thereafter shall include only the general wage increases that come due after July 1, 2005.
- (c) Employees hired before July 1, 2005, shall be entitled to the full welfare benefit program at the un-reduced wholesale rate set forth in Schedule "F". All employees hired on or after July 1, 2005 shall be covered by the HIP Facilities Only Plan plus the Union's prescription drug plan, dental plan and optical plan for which contributions shall be made at the rate set forth in Schedule "F".

- (d) For Utility employees hired between December 1, 1995 and June 30, 2005, the vacation schedule shall be identical to that provided members of Local 584 in the milk industry hired before December 1, 1995, except that the vacation entitlement shall be reduced one (1) week across the board. For all employees hired on or after July 1, 2005, the vacation schedule shall be identical to that provided present members of Local 584 in the milk industry, except that the vacation entitlement shall be reduced one (1) week across the board.

- (e) Utility employees hired between December 1, 1995 and June 30, 2005 shall be entitled to two sick days per year. All employees hired on or after July 1, 2005 shall be entitled to two sick days per year.

(f) Utility employees hired between December 1, 1995 and June 30, 2005 shall have the following Holidays: Lincoln's Birthday; Memorial Day; July 4; Labor Day; Columbus Day; Thanksgiving; Christmas; New Years Day; Employees Birthday, and Election Day. All employees hired on or after July 1, 2005 shall have the following Holidays: Lincoln's Birthday; Memorial Day; July 4; Labor Day; Columbus Day; Thanksgiving; Christmas; New Years Day; Employees Birthday, and Election Day

(g) Pension Plan shall be the Local 584 Retirement Plan on the basis of the forward funding contribution rate which is currently \$1.45 per hour.

~~For the purpose of this Paragraph, New Hires shall be all employees hired on or after July 1, 2005, or who were new hires under prior Agreements between the Union and MILTA.~~

The 90 day probationary rules shall not apply to the hire of any present member of Local 584 or Local 680, either drivers or utility workers, for Craft Group II work within the jurisdiction of Local 584 if such employee has been laid off within the twelve (12) month period just preceding ratification of this Agreement as a driver or plant worker by any employer with a collective bargaining agreement with either Local 584 or Local 680.

Any applicant for such work who may have been discharged for cause by his former employer shall be subject to the ninety (90) day probationary period.

Commission drivers hired after December 1, 1995, but before December 1, 1997, shall start at \$400 per week (\$10.00 per hour) plus commission, and shall receive any general wage increases that come during the first three years of employment. Beginning in the fourth year of employment and continuing through the seventh year of employment, the driver shall receive the following increases (in addition to any general increases that come due during the period) on the following dates:

42 months	after hire - \$.90 per hour
48 months	after hire - \$1.20 per hour
60 months	after hire - \$1.30 per hour
72 months	after hire - Parity

Effective December 1, 1997, in lieu of anything in any preceding Agreement to the contrary, minimum wage and starting wage for all newly hired commission drivers shall be \$7.50 per hour less than the general wage schedule for commission drivers. Further, in addition to increases in the general wage schedule for new hires, such newly hired commission drivers shall receive \$1.00 per hour raise on the first day of December following each anniversary of their initial date of hire in the milk industry occurring during the term of this Agreement.

Effective December 1, 2001, in lieu of anything in any preceding Agreement to the contrary, minimum wage and starting wage for all newly hired commission drivers shall be \$5.00 per hour less than the general wage schedule for commission drivers. Further, in addition to increases in the general wage schedule for new hires, such newly hired commission drivers shall receive \$1.00 per hour raise on the first day of December following each anniversary of their initial date of hire in the milk industry occurring during the term of this Agreement until the driver reaches the rate set forth in the general wage schedule for commission drivers. If application of the new wage progression to commission drivers hired by an Employer on or after December 1, 2001 would result in a less senior commission driver of the Employer receiving a higher wage rate or achieving the maximum classification rate sooner than a commission driver hired prior to December 1, 2001, the more senior commission driver shall have his wage rate adjusted by an amount necessary to maintain parity with the less senior commission driver.

Effective July 1, 2005, in lieu of anything in any preceding Agreement to the contrary, the minimum and starting wage for all commission and non-commission drivers hired on or after July 1, 2005 shall be as follows:

Commission Drivers	Non-Commission Drivers
\$13.65 per hour	\$15.00 per hour (plus \$18.00 per week on can routes)

Such employees minimum and starting wages and wage thereafter shall include only the general wage increases that come due after July 1, 2005.

GENERAL NOTES ON WAGE SCHEDULE

1. In any craft in which differentials recognizing length of service are provided for, any employee covered by the Milk Industry Collective Bargaining Agreement for a period of at least six (6) months shall, upon being hired by the Employer party to this Agreement, receive the rate of pay which recognizes his period of employment.
2. Any employee who for the week prior to November 11, 1974 received more than the wage scale provided for in this Agreement, shall suffer no reduction in wages for work in the same craft. No employee used temporarily in any other capacity shall during such temporary employment receive any reduction in wages. All employees who during the week prior to November 11, 1974, enjoyed wages above the wage schedule set up in the agreement between the union and the employer prior to the present Agreement shall receive for work in the same craft the same amount above the wages set up in the foregoing schedule.

3(a) Commissions on deliveries to stores receiving milk for resale for consumption off the premises shall be paid to the routeman serving the store, or if there is no route, to the routeman on the route nearest the store. However, commissions shall be paid on all store deliveries made from wholesale commission routes.

(b) There shall be no platform sales of milk or other products or platform deliveries of milk or other products to consumers or, except in an emergency, to any stores. Habitual platform pickups by stores shall not be considered emergencies and shall not be permitted.

(c) Platform sales of milk and platform deliveries of milk may be made to persons or companies only where the transportation of such milk from the platform and to the ultimate consignee will be made by employees in the industry-wide collective bargaining unit covered by this Agreement, working under the terms and conditions of this Agreement applicable to such work. Such sales and deliveries may also be made to dealers licensed by the Department of Agriculture and Markets of the State of New York, except for stores which are so licensed or holders of licenses whose basic business is the operation of stores. Evidence of any violation of this provision prior to November 11, 1978 shall not be a defense against enforcement of this provision after November 11, 1978.

(d) No store owned, operated, controlled or affiliated in whole or in part, with any individual Employer-Signatory to this contract or any shareholder officer, director or relative of any such shareholder, officer or director, shall sell any milk or milk product from said store to a wholesale customer. Sales in excess of more than one case to any customer on any day shall be considered a wholesale sale and in violation of this Agreement.

(e) In the event the Union determines that any store above-described is making wholesale sales in violation of this provision, the Union shall send a written notice to

such store demanding that it immediately cease and desist from making such sales. If such sales continue after two written notices from the Union during any one contract period, the Union may direct its members not to process or deliver any milk for such store in order to preserve the traditional work of its members and, in addition, commissions shall be paid into the Local 584 Pension Fund on all milk delivered into such store by the plant operator Signatory to this Agreement from the beginning of the contract period involved to the end of said period as liquidated damages.

- (f) Sales of milk from a store owned by or affiliated with a plant operator Signatory to this Agreement which is on the same premises as the plant and does not require driver delivery shall not be considered platform sales.
- 4. Pre-loaders who are assigned by their employer to drive trucks shall receive \$2.50 per week above the utility rate. A pre-loader shall not be deemed assigned to drive and shall receive no additional compensation above the pre-loaders' rate if he is instructed to move trucks occasionally. By "occasionally" is meant not more than three times in a work week. Pre-loaders instructed or assigned to drive trucks for full days in the absence of assigned drivers shall be paid 50 cents per day for each such day of service above their usual rate of pay.
- 5. Pre-loaders, and other employees other than transportation chauffeurs, shall not make deliveries to customers or do any transportation chauffeurs' work unless they are paid for such work the prevailing rate for the craft for the time spent in said work.

- 6. Wholesale commissions shall uniformly be computed on the basis of 1 ½% of total weekly sales rather than on collections. For wholesale commission routes only there shall be paid the minimum commissions set forth below on whole milk sold in the size and containers indicated, regardless of sales price. Such minimum commissions shall not apply to other products or sizes. Notwithstanding the foregoing, Employers paying commissions on list instead of net price, as of October 24, 1957, shall continue to do so, provided that in no event shall commissions be less than the minimum set forth below. The schedule of minimum commission is as follows:

	<u>Paper and Glass</u>
Quarts	.0048
1/2 Gallons	.00945
3 Quarts	.0141
Gallons	.0186

The maximum commissions which shall only apply to fluid milk, defined no whole milk and milk from which fat has been skimmed and which shall be paid to employees who operate wholesale commission routes is as follows:

½ pint	.00225
Quarts	.0075

wholesale routeman shall be entitled to the commission of the sales made on his day off if he works any part of his regular work week. In no event shall double commissions be paid except for the normal route rider's commissions, vacations, jury duty and leave because of death in family. A retail vending route rider shall receive a commission based on his own individual commission rates which shall be applied to one-fifth (1/5) of the total weekly collections (or sales as the case may be) of the routes he serves.

9. If on any Sunday or holiday the rider serves combined routes, the route earning the highest commissions for the week shall be the one to be used as one of the 5 routes in computing the rider's commissions.

10. A vacation relief rider who relieves other riders or foremen shall receive as his pay an average of his pay during the last four weeks in which the vacation relief rider relieved routemen.

11. A night shift bonus of 2 1/2 cents per hour shall be paid for all hours worked by all employees except those in the route crafts between 10:00 P.M. and 6:00 A.M. Payment of this shift bonus is to be made only for time actually worked and is not to be paid for un-worked time such as vacations, holidays and the like.

12. Routes consisting exclusively of school stops shall be known as "School Routes" and employees on such routes shall receive the non-commission rate of pay plus \$3 per week for the hours actually worked on said routes, but not in excess thereof. In case of school stops on other routes, commissions shall be paid for school stops at the prevailing rate on said routes. For the purpose of layoffs only: In the event any school route employee is to be laid off and no utility craft work is provided for him, he will be entitled to exercise his company seniority among the routemen of his Employer.

13. The following provision shall apply to retail and wholesale routes: New employees not previously employed in the Milk Industry in any capacity with a company, who are employed as routemen, route riders, and vacation relief riders are to receive half pay while breaking in on their new position and until they are qualified to take their routes out alone, but in no event however, shall the half pay period exceed one week provided that new employees not previously employed in the Milk Industry in any capacity, who are employed as retail routemen, are to receive \$75 per week while breaking in for a maximum of two weeks. Wholesale foremen when assigned to a non-commission route shall receive \$10.00 per day over their regular pay scale for each day that they work on such route.

14. A man regularly assigned to a hi-lo forklift (built for a man to sit on) shall receive \$6.00 above the general utility wage rate.

15. Where a company has wholesale routes, and sells wholesale from its retail routes, the commission on such sales shall be 2 1/2%; where a company has no wholesale routes, and sells wholesale from its retail routes, the commission on such sales shall be 2 1/2 %.

Products requiring a frozen dessert license:

Gallons	.03	
Tropicana		\$.046125
3 Quart		.03075
1/2 gallons		.0165
Quart		.009
Pint		.006
7 oz.		
All other juices		\$.015375
1/2 gallons		.00825
Quart		.0045
Pint		

To assist commission employees in verifying the amount of commissions to which they are entitled, the Employer will permit such employees to examine the bills to each customer on the route showing the dollar amount and volume of sales to each such customer for the payroll period in question.

7. Only such wholesale routes as exclusively handle milk for use and consumption on the premises of the customers may be classed and paid as "non-commission routes."

"Consumption on the premises" shall refer to any use of packaged milk at an account that is not engaged in the routine sale of milk in half-gallon or larger sizes to the general public. Such accounts shall be classified as food service accounts and any company that primarily services food service accounts shall be hereinafter referred to as a food service company. Food service companies shall have the right to use non-commissioned routemen.

8. The routeman shall receive the full commission earned by his route during the week. In addition to the foregoing employees working on wholesale commission routes who work on their days off shall be paid time and one-half their base pay plus commissions on the sales for such days. In addition thereto the route rider shall receive a commission equivalent to 1/5 of the commissions paid to the routeman on each of the routes which the rider serves. In retail, whoever is charged with the book shall receive the commission. If any employee is assigned to a retail route he shall transfer the book to himself after the third working day as of the first day. If any employee is assigned to a wholesale route or retail vending route, he shall receive the commissions of the man he relieves. The

16. Any utility man who qualifies for and operates a former-filler or similar type machine shall receive \$5.50 per week above the utility rate. A reasonable opportunity shall be granted to utility men to show whether they are qualified.

SCHEDULE "B"
GENERAL RULES

1. The Employer shall not require any employees to purchase uniforms. The Employer shall supply all uniforms it requires the employee to wear, and shall launder and take care of all uniforms required to be worn by plant employees. In addition, the Employer shall furnish goggles which are to be worn during any work in which there is danger of injury to the eyes and gloves for use where the hands are exposed to alkali or broken glass. All uniforms furnished shall, wherever possible, be Union made and shall remain the property of the Employer.

The Employer agrees to furnish and launder the following clothing:

- (a) To plant and platform utility men and to utility men working on washing machines: overalls and caps, and where required, gloves.
- (b) To utility employees engaged in cleaning milk processing equipment: aprons, gloves and overalls.
- (c) To ice box men: appropriate clothing where the temperature of the ice box is 50 degrees or lower. Jackets shall be available for all men who are required to enter iceboxes. Raingear shall be available for all men who jockey trucks and platform men who are exposed to weather.
- (d) To tank men: boots, gloves, aprons and overalls.
- (e) To car and wagon washers: boots and aprons.
- (f) To garage employees: jackets, which shall be cleaned and maintained by the Employer.
- If it has been the practice in any company or plant to furnish other items, then the Employer will be expected to continue its established practice.
2. Any amount of work in excess of one (1) hour per day in a higher paid craft shall entitle the employee to pay in that higher craft on a pro rata basis.
3. In case an accident occurring while in pursuance of regular duties results in the suspension of the employee's chauffeur's or driver's license, such employee shall,

wherever practicable, be given other work for which he is qualified, pending the outcome of such suspension, subject to existing rules and regulations. It is further agreed that any driver who does not have, or loses, a CDL license for any reason, will be entitled, at the request of the Union, to a leave of absence for up to one year without pay or any other benefit including but not limited to vacation accrual. Such employee shall be entitled to resume his former route or position if he returns within such one year. The purpose of such leave shall be to give such driver the opportunity to obtain his CDL license.

4. Employees shall be notified twelve (12) hours in advance of any change in reporting time, except in an emergency.
5. Masks shall be supplied for spray and welding operators in all automotive repair shops and the Employer is to abide by all laws governing such operations.
- 5A. The Employer agrees to provide safety equipment in accordance with the regulations and requirements of OSHA. Such equipment must be worn by the employees while on duty. Any employee who fails to use and wear the safety equipment thus provided shall be subject to disciplinary action as follows:

1. Upon his first failure to use or wear such equipment the employee shall receive a written warning from the Employer.
2. Second such incident shall result in a two-day suspension without pay.
3. Third such incident shall result in a one week's suspension without pay.

Two years from the date of the first such warning, the employee's record will be cleared and the disciplinary procedure will begin anew.

- 5B. Employers will use union employees to perform normal, day to day, painting work. For major painting jobs or work requiring a time deadline, the Employer will use union employees whenever feasible provided such union employees are qualified and can do the work within regularly scheduled time.
6. Upon agreement of the Union and the Employer, any employee may be granted a leave of absence up to six (6) months without pay and with the assurance of his old position and rights upon return. Any employee who, while on a leave of absence, accepts other employment shall thereupon be deemed to have resigned his employment with the Employer except as provided below. In special cases of sickness or disability, leave of absence in excess of six (6) months may be granted on request of the Union with the consent of the Employer, which consent shall not be unreasonably withheld. An employee shall automatically be granted leave of absence for an injury or sickness sustained in connection with current employment which is covered by Workmen's Compensation benefits and upon return, if physically and mentally fit, shall resume his old position with full rights.

In the event a dispute arises by reason of the Employer's refusal to allow an employee to work because the conclusion reached by the Employer's doctor differs from the conclusions of the employee's doctor, the employee involved shall thereupon be examined by a third doctor to be mutually agreed upon and selected by the two doctors aforesaid, or failing agreement, by a doctor designated by the President of the County Medical Society wherein the dispute arises. The report of the third doctor as to the physical condition of the employee shall be final and binding upon the parties. Costs of the third doctor and expenses necessary for him to reach a conclusion shall be born equally by the parties. An employee who is found entitled to return to work pursuant to the above procedure and who has been prevented from working because of the conclusion of the Employer's doctor shall be reimbursed for all time lost as a result of the Employer's doctor's decision; compensable time lost shall accumulate only from the time when the Employer is presented with an opinion from the employee's doctor which differs from the opinion of the Employer's doctor.

7. When an employee is given a leave of absence due to illness or disability, and upon his return to work is unable to assume his old position and is temporarily placed in any other position for which he is fit, he shall be privileged, if able and fit, to exercise seniority in the craft in which he was employed when disabled, in bidding for a vacant position in such craft.
8. An employee hired temporarily to take over the duties of another employee for any reason, shall be considered a temporary employee on such job.
9. Upon returning to work after being away from duty due to illness for four weeks or more, employees of the Route Department, requesting it, shall be given assistance at least on their first day back to work.
10. Employees must notify their Superintendent or Manager and the Union, immediately of any change in residence address or telephone number. Telephone numbers are to be provided by employees and to be held in confidence by the Employer for employer's use only.
11. Employees handling money for the Employer shall not be responsible for Employer's funds lost in holdups or robberies. Each route employee shall be reimbursed up to \$50.00 in each case for his own funds lost in a holdup occurring during the course of his employment, provided that a report of the holdup is immediately made by the employee to the local Police Precinct in which the holdup occurred and a like report is made to the Employer the same day. In the event that the employer provides a safe on a truck which is operated by the route employee, the route employee shall immediately deposit all cash receipts in such safe. If a hold-up or robbery occurs during the course of his employment, the employee shall be responsible for all funds lost in the hold-up or robbery, except for the last cash collection in the event that the hold-up or robbery occurred prior to the time

that he was required to deposit such funds in the safe, and except for an additional \$75.00 of the employer's cash receipts.

12. All employees required to operate motor vehicles shall secure and pay for chauffeur's and driver's licenses required by the State in which they operate. If any employee is obliged to operate in more than one state, the Employer is to pay for any additional licenses required.
13. An employee shall not be responsible for accidents attributed to faulty equipment unless he fails to report in writing faulty equipment of which he had knowledge.
14. All fines for traffic violations resulting from faulty equipment shall be paid by the Employer, unless the employee fails to report in writing faulty equipment of which he had knowledge.
15. The Employer shall supply all equipment and tools necessary in the performance of a handymen's duties.
16. No new crafts subject to Union jurisdiction are to be created except with the joint approval of the Employer and the Union.
17. No deductions in pay are to be made for loss of time of less than 30 minutes per month.
18. In the event that an employee loses all or part of his time on account of petite or grand jury service not exceeding four weeks the Employer shall pay such employee an amount sufficient to guarantee no loss in wages including commissions, on account of such absence from work. Employees shall notify the Employer within 48 hours after they receive jury notice. Failure to give notice as prescribed herein shall result in loss of compensation rights under this provision. When employees serve on jury duty on their days of rest, they are entitled to such jury fees. Employees who serve on jury duty and who are scheduled to work on the night shift on such days after jury duty shall not be required to work and shall be paid for such shift. For the purpose of computing overtime, a jury service day paid for, even though not worked, shall be considered as full day's work.
19. At the expiration of 30 days after an employee is discharged or leaves employment, he shall be paid all monies due him for security and shall, upon his request, be given a reference as to his character and type of service.
20. In the case of a commission employee, pay for lost time shall include base pay and commission. All employees shall receive four paid sick days during each contract year. A paid sick day may not be used on a day in which snow, ice, or storm conditions exist, nor on the day before or the day after a holiday. Unused sick days shall be paid for at the end of each contract year. Pay shall be at the rate of base pay or base pay plus commission for commission employees. Pension and welfare contributions shall not be

required. New employees shall not be entitled to collect pay for any sick days used until they have been with the Employer for six (6) months. All other employees shall receive pay for sick days at the end of the pay period when the sick day was taken.

21. In the event of a death in the immediate family of an employee of which the Employer is notified within two weeks of the date of death, the Employer shall pay the employee for working time lost as the result of such death, but the period of time during which pay may be claimed shall not exceed 3 successive days, exclusive of days of rest. The immediate family shall mean only parents, spouse, children, brothers and sisters of employee. In the case of a commission employee, pay for lost time shall include base pay and commission.

In the event of the death of the employee's grand-parent mother-in-law or father-in-law, the Employer shall pay the employee one day's pay (including commission) if the funeral is on a scheduled work day for such employee.

22. If Board of Health rules or regulations require any employee to lose time from work because of contagious disease in his family, he shall suffer no loss of pay by reason thereof. In the case of a commission employee pay for lost time shall include base pay and commission.

23. Women shall receive the same pay as men for work comparable in quantity or quality to that done by men.

24. The following are designated as holidays:

New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Thanksgiving Day, Christmas Day, Lincoln's Birthday, Election Day, Employee's Birthday.

For each such holiday occurring on a regular work day of an employee, he shall receive a day's pay if he is not required to work on such holiday.

If any such holiday falls on an employee's day of rest or during his vacation or when he is serving on jury duty, he shall receive one day's pay without working on such holiday.

An employee who works on a designated holiday which falls on his day of rest shall receive three days pay inclusive of holiday pay for such work for the first eight hours and shall receive double his regular rate of pay for all overtime hours.

An employee who works on any such holiday which is one of his regularly scheduled work days shall receive two days pay inclusive of holiday pay for such day and double his regular rate of pay for all overtime hours.

In the case of commission men the premium rate shall be based on base pay.

For the purpose of computing overtime, a holiday paid for, even though not worked, shall be considered a full day's work.

When a holiday falls on Sunday, Monday will be paid for as the holiday.

25. Reasonable effort shall be made to take care of calks and skid chains prior to the time the routeman reports for duty.

26. When an employee, while actively employed, is required to go to the Legal Department or to the Compensation Bureau he shall do so on Employer's time and shall be compensated by the Employer requiring his presence.

26A. For all work-related injuries, the Employer shall provide, and the employee shall select and use, care providers from a complete occupational injury care panel of occupational clinics, physicians (first and secondary care), nurse case managers, therapy centers and any other facilities necessary to ensure the employee receives quality medical care that facilitates the employee's return to work.

27. All employees shall present a neat and clean appearance at all times while on duty.

28. Employees who drive motor vehicles must report in writing in a book provided for the purpose at the branch, plant or garage; where they are employed, any defect or damage which comes to their attention or which develops while they are driving.

29. Each branch where trailers requiring jacking up are detached from trucks shall have at least one man experienced in jack-up.

30. Each branch where trailers are jacked up shall have plenty of chocks and wood horses.

31. The term "emergency" shall mean breakdown in operations, or shortage in milk, or any unforeseen conditions beyond control of management.

32A. For all employees the workweek shall be a five-day, forty (40) hour week.

32B. No employee shall be permitted to work a seventh consecutive day during his pay week, except in case of extreme emergency.

33. For all employees employed in the retail and wholesale route sales crafts, working time in excess of forty (40) hours in any one week shall be paid for at the rate of time and one-half and hourly rates shall be computed by dividing the employee's base pay by forty. For all other employees, total working time in excess of eight (8) hours in any one day and forty (40) hours in any one week shall be paid for at the rate of time and one-half and hourly rates shall be computed by dividing such employee's base pay by forty; and for

such employees there shall be a one-half hour lunch period as close to the middle of the working day as possible. Except with the consent of the employee, no lunch period shall commence less than three or more than five hours after the commencement of work.

34. An employee working on his day off or working overtime shall receive time and a half. No employee is to accept time off for overtime worked.

34A. Opportunities to work overtime shall be offered to employees in the order of their seniority. However, skilled employees in bid positions cannot utilize their seniority to take an over-time opportunity if that opportunity will make the employee unavailable to perform his bid job.

The Employer may require junior employees to work over-time, in reverse seniority order, if the need for over-time is not fulfilled when offered to employees in seniority order.

All crafts listed in Group 2 shall be entitled to overtime based on their overall seniority in Group 2, if qualified. A foreman shall not be used to deprive a utility man of the opportunity of working overtime. However, if no utility man is immediately available who is able to perform the work, then the foreman may perform such overtime work until a utility man becomes available.

If an employee does not show up for over-time work after volunteering for the work, the Employer shall have the right to deny said employee the next over-time opportunity that the employee would otherwise be entitled to work.

34B. Completely itemized written pay statements shall be furnished to all employees on each payday.

34C. Should any Employer, signatory to this contract, engage during the life of this contract in tank truck milk hauling, originating or terminating in the servicing area covered by this contract, he shall do so with his own employees working under the terms and conditions of the Zone II agreement, providing he has no conflicting contractual legal or statutory obligations, at the then prevailing rates for such work.

34D. In the hiring of employees, the age of the applicant shall not be a barrier to employment.

34E. Employers shall have the right to operate their plants five (5) days per week without two (2) consecutive days off. During five (5) day production operations, all utility employees shall have either Saturday or Sunday off.

34F. There shall be no layoff of plant employees who become surplus as a result of the operation of plants on a five (5) day basis without two (2) consecutive days off. Nothing in this agreement shall be construed to interfere with the right of any company to

permanently or temporarily reduce its staff size by layoffs as a result of voluntary resignations, retirements, or loss of business in any form. Discharged employees shall not count toward attrition.

Route Craft employees who become surplus as a result of the implementation of the provisions of this Agreement may be laid off provided, however, that such employee shall receive six (6) months full welfare coverage from the date of layoff and contributions shall be continued into the Welfare Plan for a period of four (4) months.

Schedule I, known as the "Cole Award" shall remain in effect to the same extent as is presently practiced. Within forty-five (45) days after the implementation of a five (5) day work week, a time clock shall be made available to be used as a guideline to assist in evaluating, where the question is raised, whether the employee's route is capable of being covered within forty (40) working hours.

No such pasteurizing plant shall lay off inside or outside general utility, platform or pasteurizing employees if such layoff is a result of now processing on a 5-day basis or less, or is a result of reducing the number of days of processing in the future.

34G. The Employer shall not make deliveries of milk to warehouses whether located in the counties mentioned below or elsewhere from which such milk will, or may be, redistributed or redelivered to stores located within the five counties of New York City, or Nassau or Suffolk Counties, for resale. No deliveries shall be made to warehouses for re-distribution or re-delivery which would be prohibited to employers under contract with Local 338.

34H. No Employer shall require, request or suggest that any member of Local 584 take a polygraph or any other form of lie detector test.

35. Each employee on a route shall be required to execute an agreement copy of which is annexed hereto and marked Schedule "E."

36. The Employer may hold periodic meetings of its employees; such meetings shall be held at a time to be fixed by the Steward and the representatives of the Employer so as not to impose any hardship upon the employees. No employee shall be required to attend any such meeting on his day off.

37. Any employee who desires to terminate his employment must give his Employer one week's notice. The Union will, upon complaint of the Employer, withhold for seven days from the date of such complaint the work card of any Union member who fails to give such notice.

38. Employees are not permitted to engage in any other occupation or business during the course of their employment.

39. The Employer may from time to time institute sales incentive plans, provided, however, that the same are discussed with the Union.

40. Where cash security is required, the rate of interest to be paid by Employer to the Employees shall be 8 %.

In the event the Employer takes over by purchase or otherwise the route or routes of any other concern, the Union shall be notified promptly. The Employer shall, in such event, provide for the transfer or payment of all security which the men involved had with the former owner from whom the route or routes are being taken. Immediately upon taking over such route or routes, the Employer shall credit to the men taken over, and provide for payment to the men not taken over, such sums as they may be entitled to on account of security, as of the time they are taken over. Responsibility for wages and vacations, or vacation money, less personal obligations, if any, pension and welfare contributions accrued and unpaid and dues and initiation fees previously checked off shall be assumed by the Purchaser.

41. No route employee shall make bank deposits of collections on behalf of the Employer.

42A. No milk products of any kind are to be carried on seats of auto trucks and no goods of any kind are to be carried on seats of auto trucks if such goods interfere with safe driving.

42B. New vehicles leased or purchased after October 24, 1963 for route craft operations shall be equipped with heaters and defrosters. All new trucks put into service after November 11, 1980 shall be equipped with power steering.

42C. All delivery vehicles shall be equipped with at least one door capable of being opened from the inside.

42D. Employees shall be provided with locker facilities.

42E. All Employers will provide bid boxes and bulletin boards.

42F. On every truck on which a driver collects money for his Employer, a safe shall be installed and a sign will be posted in English and Spanish stating that the truck has a safe and that the driver carries no money and cannot open the safe. On every truck on which a driver collects no money, a sign will be posted in English and Spanish stating that the driver carries no money. Employers will have six (6) months from the commencement of the contract term to complete installation of the safes.

43. The Employers and the Union agree that no employee will be discriminated against by reason of race, color, religion, national origin, age or sex.

RETAIL, WHOLESALE AND VENDING DIVISIONS

44A. Definitions.

1. New York Urban Area: The New York Urban Area shall include New York County, Bronx County, Kings County and Queens County.

2. New York Suburban Area: The New York Suburban Area shall include the Counties of Richmond, Nassau, Suffolk, Westchester and Rockland in the State of New York and that portion of the County of Fairfield in the State of Connecticut lying south and west of a line projecting northwesterly from Fairfield to the nearest point of the New York State line.

3. New Jersey Area: The New Jersey Area shall consist of the Counties of Hudson, Bergen, Passaic, Essex, Union, Middlesex, Somerset and Morris in the State of New Jersey and that portion of Monmouth and Ocean Counties in the State of New Jersey bordering on the Atlantic Ocean, including the coastal areas designated as the North Shore resort section and the municipalities of Morgan, Keyport, Redbank, Long Branch, Asbury Park, Toms River and points south to Brigantine Inlet which separates the Counties of Ocean and Atlantic in the State of New Jersey.

B. Leaving Hours.

1. No milk for any retail or wholesale routes, whether the routes belong to the Employer or not, shall be permitted by the Employer to leave the last point of loading before the times hereinafter specified. This paragraph shall not apply to the New Jersey Area.

2. New York Urban Area: Wholesale. No wholesale route operating in the New York Urban Area shall leave its last point of loading before 4:30 A.M. on any calendar day provided, however, that wholesale routes in the New York Urban Area exclusively handling milk for use and consumption on the premises of the customer shall not leave before 1:00 A.M., but may arrange with the Union to leave earlier if mutually agreeable.

3. New York Urban Area: Retail. Retail routes in the New York Urban Area may leave their last point of loading at any time after 2:00 A.M. but shall make no wholesale deliveries earlier than 7:00 A.M. in any calendar day. No retail vending route operating in the New York Urban Area shall leave its last point of loading before 2:00 A.M.

4. New York Suburban Area. No wholesale route in the New York Suburban Area shall leave its last point of loading prior to 7:30 A.M. in any one calendar day.

Routes operating in Nassau and Suffolk Counties may leave their last points of loading at 4:00 A.M. Routes operating in Westchester County, and all routes operating in Connecticut may leave from last points of loading when loaded but not before 5:30 A.M. Wholesale routes in the suburban area exclusively handling milk for use and consumption

on the premises of the customer may arrange with the Union to leave their last point of loading at an earlier hour.

5. New Jersey Area: No route operated in the New Jersey area shall leave its last point of loading prior to 5:00 A.M. for wholesale and 4:00 A.M. for retail, except in such cases where the Employer shall have arranged with the Union for specified wholesale routes which handle milk for use and consumption on the premises of the customer to leave the last points of loading at an earlier hour.

6. Before routes are permitted to leave last points of loading at earlier hours than specified, the Union will be notified thereof not less than 72 hours in advance and if the Union desires it, the matter will be discussed by the Employer and the Union.

7. Leaving hours for vending, wholesale and retail, shall correspond to leaving hours set forth in Schedule "B," Section 44B, for wholesale and retail respectively.

8. No route operating in one county but originating in another county may enter the county of operation prior to the leaving hour provided herein for said county of operation.

9. All Areas: In the event that the Union or Employer shall claim non-compliance with the leaving-hour provisions of this agreement on the part of any dealer who is a party to this Agreement or counterpart hereof, or sub-dealer serviced by such dealer (except non-union sub-dealers in New Jersey) and should such matter not be settled after notice to all dealers involved, it shall be referred to an arbitrator selected as provided by this Agreement. If the arbitrator shall find the existence of a violation, he shall determine the extent of the violation and shall have unlimited power to and shall impose such penalties and take such appropriate action as will be necessary to obtain and maintain compliance with the leaving-hour provisions. It is the intention hereof that any Employer or the Union may invoke arbitration against any other Employer or the Union to enforce uniform leaving hours although the parties to the arbitration are not parties to the same contract. In addition to the right to arbitration as aforesaid, any Employer or the Union shall have the right to take such action at law or in equity as may be necessary to enforce such arbitration procedure and the arbitrator's award pursuant thereto.

10. The words, "last point of loading", as used above shall mean the loading point which is at the place where the trucks are garaged.

C. Working Time and Time Schedules

1. Working time for the retail and wholesale sales crafts shall be measured from the time an employee reports for work at the beginning of the working day to the time he completes all clerical work required of him by the employer for that day and turns his cash in to the cashier. The employer may supervise the clerical and bookkeeping work of the employees, but no employee shall be required to do such work on his own time. It is, of course, understood that if an employee expects to claim overtime upon the basis of

booking in time, he must do his bookwork diligently, and that the Employer is not expected to pay for time spent in social conversation. As it is the practice for employees to eat breakfast or lunch while on their route, three-quarters of an hour a day shall be subtracted from total working time. The working time of each employee shall be recorded by the Employer.

2. Subject to the provisions of subsection B above and of Section 8 of the Agreement, an Employer may schedule the times at which an employee shall:

- a. Report for work,
- b. Pull out on the route fully loaded, and
- c. Return from the route for unloading.

Such schedules may be readjusted by the Employer from time to time at his discretion and may provide for uniform times for all employees or for staggered times as the Employer sees fit.

3. If reporting time is so scheduled, an employee's working time shall commence with his scheduled reporting time unless:

- a. An employee is directed to report for work earlier or later by the Employer;
- or
- b. An employee is late for work, in which cases working time shall start with the time an employee actually reports. Persistent unexcused lateness for work shall be good cause for discharge.

4. The Employer in his discretion may direct that employees must return from their routes within fifteen minutes of the scheduled returning hour whether or not their routes have been completely serviced. If such a direction is given, any time spent on a route in excess of the scheduled returning hour on that day, shall not be included in computing working time.

5. In case of a delay in loading or starting due to delays in the arrival of milk or to breakdowns of machinery for which the Employer is not responsible, the Employer may notify the employees not to come in at their scheduled reporting time. If such notice is given, working time shall commence whenever the employees are notified to report. If such notice is not given, the Employer shall nevertheless have one hour leeway after the scheduled reporting time before working time shall commence.

6. Delays on the route over one hour due to breakdown or accidents for which the employee is not responsible shall be included in working time.

D. Final Returning Time: (Except for the route Maintenance Man under Schedule "J" Union Responsibilities.

1. The Union undertakes to cooperate fully with the Employer in securing the observance of the time schedules set by the Employer and in preventing unnecessary overtime. To that end it will make every effort to see that the employees conform as closely as possible to such schedules and that in any case all routes return to the first point of unloading by the uniform final returning time set forth below. The right of an Employer to instruct an employee to stay out on his route beyond such returning time shall not, however, be affected.
- | Final Returning Time | |
|------------------------|-----------|
| New York Suburban Area | 4:00 P.M. |
| New York Urban Area | 2:30 P.M. |
| New Jersey Area | 3:00 P.M. |
- It must be emphasized that the presence of the above uniform returning time does not alter the employee's duty to return to the plant as soon as his work is finished. No employee has a right to stay out until the final returning time if he could with diligence return before. He has no right, however, to remain out after that time unless in emergencies or unless instructed to do so by his Employer.
2. The only purpose of the final uniform returning time is to serve as an aid to the Union and the Employer in securing general uniformity in delivery hours in this market. It has nothing necessarily to do with overtime payment that is governed only by total weekly working time.
 3. Any employee who deliberately delays the completion of his work in order to build up overtime by fraud and deceit shall be subject to discharge. Any dispute between the Employer and the Union as to whether such deliberate delays were ordered or encouraged by officials of the Union shall be submitted to arbitration pursuant to the provision of paragraph 16 of the contract, and the arbitrator may, in his discretion, suspend all overtime payments in the branch or plant affected, for such period as he sees fit.
 45. No employee in charge of a route shall carry any unauthorized persons on the vehicle. It shall be a violation of this Agreement for the Employer to hire helpers to assist any employee in charge of a route, or, for any such employee to avail himself of the services of a helper.
 46. Routeman's, Foreman's, Route Rider's and Vacation Rider's orders for by-products shall not be increased without his knowledge or consent, and no returns of by-products shall be refused.
47. All monthly bills shall be made out by the Employer.
 48. Each routeman, or man in charge of the route, shall be responsible within reason, for the Employer's route book, while it is in his possession, and it shall be turned in daily to some authorized person at the branch with which such employee is connected at the time he turns in his daily collections and reports.
 49. Claims made by Routemen for all products broken or spilled and for sours to be credited on platform at time of turning in daily.
 50. Stolen goods shall be credited within seven days after claim is made.
 51. The Route Foreman shall not permanently serve any route or section, nor shall he temporarily serve any route or section continuously for more than seven (7) working days.
 52. On those days when a Foreman shall serve a route, his services for the day shall be confined to the service of such route, and shall be deemed finished upon completion by him of the duties usually performed by the man he is relieving.
 53. A Route Foreman shall not be required to do any work in pasteurizing plants or garage or any utility work.
 54. Retail Route Riders shall not be required to serve other routes than the routes assigned to them in their respective sections. Where there are exceptions, when required, no discrimination shall be exercised. The Retail Route Rider's duty shall consist primarily of the proper servicing of the route. In addition, he shall investigate stops that occurred within one week and not more than six away, except that during the period from August 15th to September 15th, inclusive, he shall investigate a reasonable number of aways. He shall make only such collections as are necessary on the day he is on such route. No route rider shall be responsible for the acts or omissions of any other employee.
 55. On Sundays and holidays when there is a substantial reduction in the quantity of milk and milk products distributed, the Foreman, Rider, Vacation Rider or Routeman may serve more than one route, provided that the total amount served by him on such day shall not exceed 75% of the average daily quantity for the preceding 7 days on any one of the routes so served by him. Non-commision Can Routes shall be permitted to operate in accordance with this paragraph on Saturdays, Sundays, and holidays.
 56. It shall be a violation of this Agreement for route trucks delivering milk or milk products in Greater New York to carry ice in excess of that required by all health regulations to keep the products at temperatures required by law. It shall be a violation of this Agreement for any employee to be required to carry more than one cake of ice on any route in addition to crushed ice or for any employee to be required to deliver any ice to customers.

In territories outside of Greater New York Employers and the Union shall make every effort to cooperate to apply the same restrictions contained in this provision if competitive conditions permit.

57. It will be considered a violation of this Agreement for any Routeman, Route Rider or any employee to take from any customers any bottles, cases or cans other than those that were handled or are the property of the Employer.

58. No employee will be required to pay any deposits on cases, cans or other containers unless deposits can be passed on to the customers.

59. Any advertising material, such as collars, to be placed on bottles, shall be placed in the pasteurizing plant when practical.

60. The route book is to be written up by the retail and wholesale route salesmen at a time to be fixed by the Employer. The Employer will discuss the fixing of time with the Union in order, so far as is possible, to avoid hardships.

61. All stops, aways, resumes and complaints, other than complaints against the employee himself, shall be promptly reported by the employee to the Employer on forms to be supplied by the Employer.

62. An employee, substantially all of whose stops are regular stops of the Employer, shall not be considered a special delivery man for the purpose of fixing his wages. No telephone orders or special stops, even though for regular customers, shall be considered regular daily stops.

63. All routes at present selling retail and wholesale shall be considered retail routes, for purposes of leaving and returning time only.

64. Any route man shall upon request at the end of any week be entitled to be advised of the outstanding balance on his route as of that day. The Employer, without request by the employee, shall furnish the outstanding balance on his route to each retail routeman regularly once each month in writing, not later than the 10th of the following month. Effective March 1, 1968, all retail routemen shall be advised each day of the outstanding balance on their sheet on the routes they serve as of no later than forty-eight (48) hours earlier. This shall not apply in the case of weekends and holidays.

65. Wherever practicable no retail route is to carry polybag milk if a wholesale route covers the territory.

66. Retail routemen shall receive credit in points on all goods delivered to their regular customers by special delivery men.

66A. It shall be a violation of this Agreement for any party to said Agreement to sell or distribute milk retail from wholesale trucks, or for Employers to establish, service or deliver to depots for the purpose of distributing or selling milk. The foregoing shall not apply to deliveries directly to settlement houses for distribution at the settlement house or to milk stations sponsored and supervised by bona fide settlement houses at low income housing projects, if the Union is notified in advance and written verification by the settlement house is furnished, or to milk stations at nurseries or other charitable institutions in which milk is sold or distributed free of charge for the nurseries or charitable institution itself, or to transactions between duly licensed milk dealers.

66B. Wholesale route riders shall be given an accounting of pay received by each route in their section.

66C. No employee shall make a delivery on Sunday to any wholesale establishment except hospitals, governmental and public institutions, and except in Suffolk County, provided however, that there shall be no reduction in employment and no reduction in take home pay as a consequence of this provision.

66D. Wholesale deliveries of milk may be made by trailer truck to stores. Each trailer shall be manned by a driver who shall be paid an hourly wage of \$17.08 without commission, on the following conditions:

1. Overtime pay and holiday pay shall be the same as is provided for routemen, it being understood, however, that trailer drivers shall have overtime pay calculated after eight (8) hours of work each day.
 2. All drivers shall be paid from time clocks.
 3. (a) Each employee who is a commissioned route driver on the date of this Agreement, who becomes an hourly paid tractor trailer driver, shall, after the calculation of such employee's weekly earnings (or pro-rata for less than a full work week) receive a payment which shall not be less than an amount equal to one week (or pro-rata for less than a full week's work) of pay, based upon such employee's average weekly wages calculated from his 1986 W-2.
 - (b) Once a tractor trailer driver returns to a commission route voluntarily, the provisions of paragraph 3. (a), above, shall no longer apply to him either as a commission route driver, or as a tractor trailer driver.
 4. Newly-created tractor-trailer drivers' positions shall be bid out on the basis of seniority. In the event there are no bids, drivers shall be assigned in inverse order of seniority. All drivers who successfully bid or who are assigned shall be trained by Employers on Company time to obtain a Class I License and such employee shall be given a reasonable time to qualify.

5. No helpers shall be required on tractor-trailers.
6. The Employer shall have the right to utilize the conditions of this Paragraph for any type of vehicle.

Trucks used for transport being loaded with cases of paper containing 24 quarts, or twelve half-gallons, or six gallons, must be loaded no more than six cases high, with no aisle loading requirement.

66K. In lieu of supplying hand trucks to wholesale drivers who use them, the Employer will pay said wholesale drivers \$25.00 per year at the end of each contract year for the purpose of the driver purchasing and maintaining said hand truck.

66L. Delivery of only by-products by trailer to warehouses and stores will be permitted on the following terms:

- (a) Drivers shall work a forty-hour week and shall be paid from time clock records.
- (b) Trailers may be utilized and they shall be manned by one driver who shall be paid at the rate of \$15.32 per hour. Overtime and holiday pay shall be the same as that provided for routemen.
- (c) Drivers shall be drawn from present members of the Union. Such employees shall be given an opportunity to train for a Class I License.
- (d) Milk for on-premises consumption may be carried on a trailer which makes deliveries of ice cream, shake and other mix to that same customer.

GENERAL UTILITY-PASTEURIZING PLANTS

67. Eight hours of work shall constitute a day's work with a provision of one-half hour for lunch to be taken as near the middle of the working time as possible. Except with the consent of the employee no lunch period shall commence less than 3 or more than 5 hours after the commencement of work. All utility employees shall be required to take the one-half hour lunch period except in the case of pasteurizers and employees engaged in the operation of receiving milk tanks.

68. There shall be no specified time required for cleaning equipment. It is understood that the Employer has the right to determine and direct that the job be done in a prompt, diligent and efficient manner.

69. In the event an employee is required to go into the ice-box he shall have reasonable time to cool off and go into the locker room to change into dry garments.

69A. Employer shall cooperate to protect health of employees so that fans do not blow directly on men working in box.

70. No employee shall be responsible for any piece of sanitary work that he does unless he is on said work from start to finish.

71. No Foreman if not a Union man shall do utility work at any time, except in case of emergency.
72. Men working on casing in, bottle fillers, inspecting bottles and washers, shall have the privilege of rotating every 4 hours.

73. There shall be reasonable time for relief in every eight hours for all utility men, including platform men as well as employees in the pasteurizing plants. As a safety measure, an employee shall carry only one (1) box of glass (twelve (12) single quarts) or one (1) box of paper containers (twenty-four (24) single quarts) at a time.
74. Excepting days generally observed as holidays in the area where the branch operates, the daily starting time of platform men shall not vary from week to week except upon one week's notice. They shall not be scheduled to work on both day and night shift during any week. Relief platform men may work both day and night during same week provided they receive at least 24 hours off between such shifts.

TRANSPORTATION

75. Chauffeurs shall not drive in or out of any Branch, Plant, or Shop without proper guidance.
76. Chauffeurs shall not load or unload trailers at the plant of original loading.
77. Spare tire racks and tires shall be removed from doors of auto trucks.

AUTOMOTIVE DIVISION

78. Relief men will get transportation costs and expenses, if boarding is required.
79. The term, "Mechanic-in-Charge" applies to men in charge of repair shops, where more than one Mechanic, Mechanic's Helper or Garage Utility man are employed. The Mechanic-in-Charge may be required to do repair work, all or part time.
80. The term, "Mechanic" applies to men who are and have been completing repair work assigned to them without the necessity of supervision during said repair operations.
81. Mechanic's Helpers and Garage Utility men may be recognized as one or two crafts depending on the present practice of the Employer. Existing wage differentials between the two crafts are to be maintained.

82. Any garage employee not listed in the wage scale and who may be engaged in a special type of work not defined in this Agreement shall, under this Agreement, receive the wages of the original craft that said employee was taken from; in such case, such employee shall suffer no wage reduction.

83. Straight 8 hour shifts for men working continuously on said shifts from 4 P.M. to 12 Midnight and from 12 Midnight to 8 A.M. are to be allowed 30 minutes during the 8-hour period for lunch.
84. At no time shall a Helper be permitted to be in charge of a garage, except Sundays, holidays and days of rest for relief purposes only, and except at times when the employee assigned to be in charge is not available.
85. Repair shop employees are not required to do any bookkeeping other than the regular Shop Repair Forms and such requisitions as repair work may require. Any permissible work in this case to be done only by the Mechanic-in-Charge.

86. The Employer agrees to supply and launder necessary unionalls for Mechanics and Helpers.

87. The Employer agrees to supply ample Safety Devices, such as Safety Jacks, Spring Spreaders, Chain Hoists, Garage Jacks, Tire and Rim Tools, Heavy Duty Wrenches, Wheel Pullers and any other shop equipment necessary for the safe and efficient repair of its vehicles.

88. The Employer agrees to provide in each shop sufficient drills, taps, dies, reamers, and any other cutting tools that the repair requirement may need.
89. The Employer agrees to provide repair shop working spaces that are heated and to locate such spaces in dry areas in buildings not now so provided.

90. The Employer agrees to provide lockers, hot and cold water in proper wash rooms and ample towel and soap supply and rubber ponchos. The Employer will provide insurance coverage for theft of tools of automotive mechanics by breaking and entering of Employer's premises unless such policy is cancelled by the carrier because of unfavorable experience. Employees shall make use of such safeguards for tools as are provided by the Employer.

91. All men in the Automotive Division shall get the following holidays off: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Armistice Day, Thanksgiving Day and Christmas Day. In case any employee is required to work on any such holiday, he shall receive another day off in lieu of such holiday within fourteen days except when two holidays fall in one month in which case both shall be within 30 days. If any of said

holidays fall on an employee's day off, or during his vacation or when he is serving on jury duty, he shall nevertheless receive an additional day off.

92. The Employer shall reimburse an automotive mechanic upon the theft of his tools for the actual value of his tools up to \$750 upon evidence of a break-in of company premises or locker and up to \$250 upon theft on a road call as a result of a break-in.

92A. \$300.00 tool allowance to be paid to all maintenance automotive and generator mechanics on February 1, 2001, February 1, 2002, and February 1, 2003, except where employer supplies such mechanics with all their tools.

92B. Automotive mechanics will also receive their Birthday off and two (2) additional sick days.

Maintenance

93. The term "Foreman" applies to men in charge of maintenance shops where more than one maintenance man is employed. The foreman may be required to do maintenance work, all or part time.

94. The Employer agrees to supply and launder necessary uniforms for maintenance men. The Employer further agrees to supply all special safety wearing apparel that may be required by law.

95. The Employees are not required to supply tools.

96. The Employer agrees to provide lockers, hot and cold water in proper wash rooms and an ample supply of towels and soap.

97. Opportunities to work overtime shall be offered to employees in the order of their seniority on their shift if fully qualified, as may be determined by the Employer.

98. Men required to work in the ice box must have proper jackets.

99. If a maintenance man relieves a foreman for reasons of vacation or illness, he shall receive five (\$5.00) dollars per week in addition to his normal rate.

100. Maintenance men will also receive their Birthday off and two (2) additional sick days.

SCHEDULE "C" SENIORITY RULES Effective April 1, 1966 CRAFT GROUPS

A. Craft Groups

The craft groups shall be as follows:

Group 1 - Retail Foremen, Route Riders, Vacation Relief Riders, Routemen, Wholesale Foremen, Route Riders, Vacation Relief Riders, Routemen, Vending Retail Foremen, Vending Route Retail Riders, Vending Retail Vacation Relief Riders, Vending Retail Routemen, Vending Wholesale Foremen, Vending Wholesale Route Riders, Vending Vacation Relief Riders, Vending Wholesale Routemen, Wholesale Milk Tractor Trailer drivers to stores, Assistant Wholesale Milk Tractor Trailer Drivers to stores.

Group 2 - Platform and Yard Foremen, Utility Men, Special Delivery Men, Transportation Chauffeurs, Tractor Trailer Drivers, By Product Tractor Drivers, Pre-Loaders, Pasteurizers, Testers, Weightmasters, Plant Foremen, Plant Relief Foremen, Pure Pak Operators, it being understood that it is not the intention hereof to require the Employer to create new jobs, or cover employees not presently covered by the contract.

Group 3 - Watchmen

Group 4 - Porters

Group 5 - Mechanics, Mechanics' Helpers and Garage Utility

Group 6 - Maintenance Employees

Group 7 - Laboratory Technicians

Group 8 - Electrical Generator Mechanics - work may be done by Maintenance Mechanics in Group 6 when generator used only for peak loads.

B. Layoffs

All layoffs shall be made on the basis of seniority in craft in the branch, plant or depot affected. The employee with the least seniority shall be the employee laid off. In the event that two or more employees have the same amount of seniority in the branch, plant or depot affected, their relative seniority shall be determined as follows: the more senior employee shall be the one who has worked more time in craft, in the milk industry, in a classification covered by this Collective Bargaining Agreement. The relative seniority will be determined on date of hire.

C. Seniority List

The Union shall be required to send the following documentation to Urban Public Relations, Inc. 310 Madison Ave., Suite 200, New York, New York 10017, Attention George Douris:

- (a) On a monthly basis, the Seniority List of all laid off persons previously employed by any employer signatory hereto;
- (b) A copy of any and all contracts which the Union files with any other firm, corporation or entity, other than the instant contract.

employee with the least amount of Craft Group I seniority. If the junior man in the Craft Group is in wholesale store delivery or wholesale non-commission or retail vending, he shall be the one to be laid off and the slot to be filled upon his displacement will be put up for bid in accordance with Section B below. This rule shall not apply to temporary summer routes at seashore and country branches, plants or depots.

1. ROUTES

A. Layoffs

All layoffs shall be made on the basis of seniority in Craft Group I in the branch, plant or depot affected. When a layoff is necessary, the employee with the least seniority in Craft Group I in the branch, plant or depot affected shall be the employee laid off. However, with respect to employees of Deltown Foods, Inc. hired prior to April 1, 1979, layoffs of Craft Group I employees shall be on the basis of company seniority.

In case of any Employer who has combination seniority involving two or more of the following categories of employees:

Wholesale, retail and retail vending.

(a) If any route is taken off and split in wholesale store delivery, the employee whose route was taken off has the option of bumping the least senior employee among the employees involved in the split or the junior man in wholesale store delivery. If the man who is displaced is the junior man in wholesale store delivery the displaced man will then displace the employee in wholesale non-commission with the least amount of Craft Group I seniority. If the man who is displaced is not the junior man in wholesale store delivery, the displaced man will then displace the junior man in wholesale store delivery who in turn will bump the non-commission man with the least amount of Craft Group I seniority. The so displaced employee will in turn displace the employee in wholesale non-commission with the least amount of Craft Group I seniority. The so displaced employee will in turn displace the employee with the least amount of Craft Group I seniority.

(b) If any route is taken off in wholesale non-commission, the displaced employee shall displace the employee in the wholesale non-commission route craft with the least amount of Craft Group I seniority. The so displaced employee will in turn displace the employee with the least amount of Craft Group I seniority.

(c) If any route is taken off in retail, the displaced employee will displace the employee with the least amount of Craft Group I seniority in retail. If any route is taken off in retail vending, the displaced employee will displace the least senior retail vending routeman and the so displaced least senior retail vending routeman shall displace the such route.

B. Bidding for Vacant Positions

1. Vacant Route Rider's Section

A vacant Route Rider's Section is to be publicly posted for bid for 72 hours and the Route Rider with the greatest Craft Group I seniority employed in the branch, plant or depot out of which such section operates shall have the first option on such section. If he declines, the Route Rider with the next greatest Craft Group I seniority in such branch, plant or depot shall have such option and go on. The bidding for such vacant section shall conclude the bidding and the section left vacant by the successful bidder is to go to the new Route Rider to be made in accordance with paragraph 2 below. If no bid is made for such vacant section by a route rider, the procedure set forth in Section 2 below shall be followed for the vacant section.

When any retail, wholesale or vending route or routes are transferred from branch to branch, the retail, wholesale or vending routemen whose routes are transferred may elect to follow the route. If they decline, the remaining routemen in retail, wholesale or vending, depending upon which routes are transferred, may exercise their Craft Group I seniority to follow the route. If no such routemen elect to follow the route, the employee in retail, wholesale or vending, as the case may be, with the least amount of Craft Group I seniority may be required to follow the route. The same procedures shall apply to route riders where a sufficient number of retail, wholesale or vending routes are transferred to warrant transfer of route riders.

2. Vacant Route Rider's Position

A vacant route rider's position shall be publicly posted for bid for 72 hours among all routemen, vacation relief riders and foremen in the branch, plant or depot. If no bids are received from such employees, the position shall be posted for bid among all special delivery men and transportation chauffeurs, and if no bids are received from such employees, the position shall be posted for bids among employees in Craft Group II, except pasteurizers. The senior bidder will get the position.

3. Vacant Routes

All routes which become vacant shall be publicly posted for bid for 72 hours among all employees in Craft Group I, and the senior bidder in the branch, plant or depot shall get such route.

employees and transportation chauffeurs, and if no bids are received from such employees, then the position shall be posted for bid among all employees in Craft Group II except pasteurizers.

(a) If the position so vacated is a route, the position so vacated shall be posted for bid among all Craft Group I and the senior bidder in the branch, plant or depot shall get the route. In such event, if the position left vacant by the successful bidder is again a route, the position so vacated shall be posted for bid among all can and non-commission routemen, and if no bids are received from such employees, then the position shall be posted for bid among all special delivery employees and transportation chauffeurs, and if no bids are received from such employees, then the position shall be posted for bid among all employees in Craft Group II except pasteurizers. The senior bidder shall get the position.

(b) If the position so vacated is a route rider's or vacation relief rider's position, said position shall be posted for bid in accordance with Par B.1 and Par. B.2, above.

(ii) If the position left by the successful bidder is a Craft Group I foreman, the procedure set forth in Par.B.3 (ii) above shall apply.

(iii) If the position left by the successful bidder is a route rider's or vacation relief rider's position, the procedure set forth in IB.3 (iii) above shall apply.

One successful bid is permitted per year per man. This rule shall not apply to temporary summer routes at seashore and country branches. Bidding for changes within a craft shall not interfere with the bidding by a man out of his craft at any time. If a route accepted by a man through a bid is taken off within a year, the man shall have the right to exercise another bid. New employees in the industry, after receiving their first permanent job assignment, shall not be privileged to bid for one year from the date of such permanent assignment.

5. Vacation Relief Positions

Positions of vacation relief men shall be posted for bid and the senior bidder in Craft Group I in the branch, plant or depot where the position is available, shall get the position. If no bids are received from such employees, the position shall be posted for bid among all special delivery men and transportation chauffeurs, and if no bids are received from such employees, the position shall be posted for bids among employees in Craft Group II, except pasteurizers.

6. Time to Effect Bidding
7. Bidding by Proxy

There shall be no more than a two-week delay between the conclusion of each bid and the placing into effect of the results thereof.

(i) If the position left by the successful bidder is a route, the position so vacated shall be posted for bid among all Craft Group I employees. If no bids are received from such employees, then the position shall be posted for bid among all special delivery

(i) If the position left vacant by the successful bidder is a route, the position so vacated shall be posted for bid among all Craft Group I and the senior bidder in the branch, plant or depot shall get the route. In such event, if the position left vacant by the successful bidder is again a route, the position so vacated shall be posted for bid among all can and non-commission routemen, and if no bids are received from such employees, then the position shall be posted for bid among all special delivery employees and transportation chauffeurs, and if no bids are received from such employees, then the position shall be posted for bid among all employees in Craft Group II except pasteurizers. The senior bidder shall get the position.

(ii) If the position left vacant by the successful bidder is a Craft Group I foreman, the procedure set forth in Par.B.3 (ii) above shall apply.

(iii) If the position left vacant by the successful bidder is a route rider's or vacation relief rider's position, the procedure set forth in IB.3 (iii) above shall apply.

(iii) If the position left vacant by the successful bidder is a route rider's or vacation relief rider's position shall be posted for bid in accordance with Par. B.1 and B.2, above. If such bid results in a vacant route position, it shall be posted for bid among all Craft Group I, and the senior bidder in the branch, plant or depot shall get the route. In such event, if the position left vacant by the successful bidder is again a route, then the position shall be posted for bid among all can and non-commission routemen, and if no bids are received from such employees, then the position shall be posted for bid among all special delivery employees and transportation chauffeurs, and if no bids are received from such employees, then the position shall be posted for bid among all employees in Craft Group II except pasteurizers.

4. New Routes

All new routes shall be publicly posted for bid for 72 hours among all employees in Craft Group I and the senior bidder in the branch, plant or depot shall get such route. If no bids are received from such employees, then the position shall be posted for bid among all special delivery employees and the transportation chauffeurs, and if no bids are received from such employees, then the position shall be posted for bid among all employees in Craft Group II except pasteurizers.

An employee who is on vacation, out sick, or on compensation, is privileged to bid by proxy through his steward.

C. Days of Rest

All days of rest in the route force created by vacancies shall be posted for bid in the section in which the days of rest occur. The routemen in the section involved with the greatest Craft Group I seniority in the branch, plant or depot affected who bids will be successful and all remaining routemen in the section may move up in order of Craft Group I seniority if they so desire. An employee bidding into a section will not be entitled to bid upon days of rest until the next vacancy occurs.

D. An employee bidding into Craft Group I for a permanent position shall take the available vacation period in that year in Craft Group 1.

E. In the event that an employee is unavailable to work on a given day, the employer is required to make one telephone call to the man whose day off it is in the unavailable employee's section. In the event that the unavailable employee is not in a section, the employer shall be required to make the one telephone call to the senior man who is off on that day. In no event will the employer be required to make more than one telephone call prior to replacing the unavailable man with available personnel.

II. UTILITY

A. Layoffs

All layoffs shall be made on the basis of seniority in Craft Group II in the branch, plant or depot affected. When a layoff is necessary, the employee with the least seniority in Craft Group II in the branch, plant or depot affected shall be the employee laid off. A junior employee who has been trained as a pasteurizer shall not be laid off unless the layoff occurs within his classification.

B. Bidding for New or Vacant Positions

All new positions or vacancies in positions except that of foreman in Craft Group II receiving more than the General Utility rate of pay will be posted for 72 hours and will be subject to bid by all employees in Craft Group II in the branch, plant or depot affected. The senior bidder shall get the position. Employees who successfully bid to the position of Pure-pac operator and operator of similar type machines shall, if they have no previous experience in the position, be trained for such operation and shall not be permitted to bid out of such position for at least one (1) year from the date of their successful bid. This paragraph shall not apply to successful bidders for such positions who have previous experience in the position. Any Craft Group II employee who successfully bids into a

higher paying position in Group II shall not be permitted to bid out of such position for at least one year from the date of his successful bid.

C. Days of Rest, Vacation Periods, Hours and Day or Night Shift

Craft Group II seniority shall prevail in the selection of days of rest, vacation periods, hours and day or night shifts, except:

- (a) Pasteurizers shall pick separately among themselves for selection of days of rest, vacation periods, hours, and day or night shift.
 - (b) Day and night shift employees shall pick separately among themselves for: (1) vacation periods; and (2) days of rest and hours.
 - (c) Craft Group II seniority shall prevail with respect to any change of hours which is a change of over two hours within any particular operation in the plant or when changes of hours are made which separately or cumulatively result in a substantial change of the original starting time of employees. It is the intention of the parties that any change of hours instituted without bidding shall not operate to deprive any employee of a choice of a more desirable schedule of hours or to change an employee's shift.
 - (d) When an employee bids out of one of the following positions to another (Pure-Pac employees, special delivery transportation chauffeurs and tractor-trailer drivers, clean-up crew, day shift, and night shift) the days of rest and hours left vacant by him shall be posted for bid together among the remaining employees in such position and the employee bidding into such a position shall take the days of rest and hours left available. When days of rest and hours become available in utility, a foreman may bid out of the foreman position for the days of rest and hours only after all other utility men have bid and the foreman shall take the remaining days of rest and hours left available.
 - (e) In the event that the Employer seeks to fill a vacancy on the day shift because of an extended illness:

bid.
In that event, and if the Employer seeks to fill the vacancy resulting from (1) above, employees on the night shift shall be entitled to make one temporary bid for such vacancy. If the Employer seeks to fill this vacancy the new employee shall fill the vacancy on the night shift.

In the event of a vacancy on the night shift because of an extended illness, which vacancy the Employer seeks to fill, employees on the night shift shall be entitled to make a temporary bid for such vacancy.

D. Relief

An employee in Craft Group II who is on vacation shall be relieved by a vacation relief man. The vacation relief man shall receive the wage rate for the job he actually performs and an additional \$2.00 per week, and shall have the schedule of the man he relieves for vacation. The vacation pay of the vacation relief man shall include the additional \$2.00.

III. RETAIL AND WHOLESALE AUTOMOTIVE DIVISION

A. Lay-Offs

1. Any new job position or job vacancy in the Mechanics' Craft shall be posted for bid among the Mechanics' Helpers. The senior Mechanics' Helper shall get the job if qualified.

2. All lay-offs, selection of days of rest, hours and vacation pick shall be made on the basis of craft seniority, provided that for these purposes a Mechanics' Helper who had been promoted to the position of Mechanic (or a Mechanic who had bumped into the position of Mechanics' Helper) shall be credited with combined length of service as Mechanic and Mechanics' Helper for craft seniority purposes. In the event of a lay-off in the Mechanic Craft, the junior Mechanic shall displace any Mechanics' Helper junior to him, or be laid off.

B. Bidding for Vacant Positions

All bids shall be posted for 72 hours. A senior man in the same craft shall have the first option, and so on.

C. Transfers

Transfers shall be confined to junior employees unless senior employee desires to be transferred.

D. General

Mechanics now classed as heavy or light duty men shall have the right to bid into or out of either of these respective classes, if their seniority shall so permit, and if qualified for the shift.

Relief jobs are to be placed for bid. In the event no bids or an insufficient number of bids are received, junior employees at Central Repair Shops may be drafted for the vacancies.

Upon conclusion of relief duties a relief man shall return to his original position.

A. Discharge or Resignation

Discharge or resignation of any employee shall constitute a break in service. His seniority shall start anew upon re-employment.

B. Re-employment Lists

All employees laid off through no fault of their own by the Employer shall be placed on the overall seniority list for re-employment in accordance with Section 4(c) of this Agreement. Any such employee rehired by his own Employer within 2 years from the date of layoff shall be given continued seniority for the total period employed.

C. Consolidation and Mergers

In all consolidations of branches or plants, company craft group seniority shall prevail for the purpose of layoffs, vacations, bidding and in all other usual respects.

If the Employer acquires all or any part of a milk business or all or any part of a route in any milk business and merges or consolidates the same with its own business, or handles the same in any other manner, and if the employees of the business so taken over have been covered by the Milk Industry Collective Bargaining Agreement for more than six months prior to the date of such acquisition, the Employer shall be required to assume responsibility for the employment of the employees who elect to or who are transferred to the new Employer as provided herein who shall enjoy craft group seniority, on the basis of the period of employment in the business acquired for the purpose of layoffs, vacations, bidding and in all other usual respects. Where the employees of the business so acquired have been covered by the Milk Industry Collective Bargaining Agreement for less than six months, the question of seniority of the employees of the business to be acquired is to be agreed upon between the Union and the Employer, parties to this agreement.

When any retail, wholesale or vending route or routes are affected by a consolidation or merger, the retail, wholesale or vending routemen whose routes are affected may elect to follow the route. If they decline, the remaining routemen, in retail, wholesale or vending, depending on which routes are affected by a consolidation or merger, may exercise their Craft Group I seniority to follow the route. If no such routemen elect to follow the route, the employee in retail, wholesale or vending, as the case may be, with the least amount of Craft Group I seniority may be required to follow the route. The same procedure shall apply to route riders where a sufficient number of retail, wholesale or vending routes are consolidated or merged to warrant transfer of a route rider.

In the event of layoff the junior man on the combined seniority list shall be the first to be laid off.

IV. GENERAL RULES

D. No Withdrawal of Bids

An employee may not refuse a job once it has been awarded to him after bid.

E. Temporary Employees

In the event of temporary vacancies resulting from illness or other emergencies, employees shall be selected from the appropriate unemployed seniority list and assigned to such temporary vacancies. Any utility employee who bids for a temporary route shall only be required to accept assignment to the specific route bid for, and may return to his utility position without penalty if that route becomes unavailable for any reason.

However, before any employees on the appropriate unemployed seniority list are selected, such temporary vacancy shall be posted for bid among special delivery and transportation chauffeurs, and if no bids are received from such employees, then the position shall be posted for bid among employees in Craft Group II, except pasteurizers, weighmasters, testers and tractor-trailer drivers. In the event that a permanent vacancy occurs at the branch, plant or depot at which they are employed during their employment at such location, they shall be privileged to exercise their seniority in competition with the regular employees of such branch, plant or depot for purposes of bidding for such permanent vacancies, subject to existing rules and regulations.

In the event that they are successful in so obtaining such permanent vacancy, they shall thereupon immediately be classified as permanent employees.

Any employee hired temporarily to take over the duties of another employee on such job shall be a temporary employee. Such a temporary employee shall be placed on the seniority list for purposes of lay-off.

Any utility employee who bids for a temporary route shall only be required to accept assignment to the specific route bid for, and may return to his utility position without penalty if that route becomes unavailable for any reason.

F. Qualifications for Bidding

Any successful bidder for a new or vacant route position or a position of pasteurizer, relief pasteurizer, weighmaster, tester, special delivery driver, transportation chauffeur, tractor-trailer driver, operator of Pure-Pak and similar type machines, or mechanic must be reasonably qualified to perform the duties of the position.

G. Multi-Employer Seniority

Where all of the persons having an ownership interest of a distribution company served by a plant also have an ownership interest in such plant, then Craft Group II employees shall have the right to bid for new or vacant Group I positions in accordance with the procedure set forth in Section I.B. above notwithstanding the fact that the Craft Group I and Craft Group II employees are employed by different Employers. No change of

ownership interest subsequent to October 24, 1965 shall operate to deprive employees of any of the above rights.

H. Bidding by Craft Group I for Craft Group II Utility

Before an Employer hires a utility man from outside, the Employer must put the utility job up for bid in Craft Group I.

SCHEDULE "D" VACATION RULES

1. For each year, no later than December 15th of the previous year, the Employer shall post the vacation schedule, for such period as he shall select, and each employee shall then choose his vacation within the period so scheduled, according to his seniority. Whenever the total number of vacation weeks earned by the employees of any Employer is equal to 52 or more, the Employer shall schedule vacations evenly over the full year.

Except as provided herein above with respect to new hires, an employee who commenced work during the preceding calendar year shall receive a pro rata vacation during the current calendar year based upon his service during the preceding calendar year at the rate of two weeks vacation for twelve months of employment. The vacation granted to employees in the second and third calendar years following the year in which their employment commenced, shall be two weeks each year. The vacation granted to employees in the fourth and fifth calendar year following the year in which their employment commenced shall be three weeks each year. The vacation granted in the sixth calendar year following the year in which their employment commenced shall be four weeks each year. The vacation granted in the fifteenth calendar year, and thereafter, shall be five weeks each year. In the year in which an employee's service is terminated, for whatever reason, he shall in addition to the foregoing, receive a pro rata vacation for the time he worked in his final calendar year provided, however, that no employee shall receive or accrue vacation benefits if he has been employed less than six months. Employees shall be permitted to split vacation periods in weekly increments and only one split per year shall be permitted. The employee who splits his vacation shall be placed at the bottom of the seniority list for the purpose of making a second pick.

At the Employer's option, accrued vacations of less than one week will be granted, or pay in lieu thereof shall be paid during the first calendar year after the year in which employment has commenced.

Employees will be allowed vacation credit up to ninety days away for layoff, illness, and leave of absence (of which leave of absence shall not be more than 30 days) and up to 6 months away for active duty service in the armed forces of the United States.

An employee who enters the armed forces of the United States for more than six months shall be entitled to receive the foregoing vacation pay on the same basis as any employee

whose service is terminated without forfeiting his right to return to his employment upon completion of his military service. Upon an employee making himself available for employment upon his return from military service, if employment is not available, he shall immediately be paid his vacation for all military service up to six months.

When an employee entitled to base pay and commission leaves for his vacation, his full vacation base pay shall be given to him in advance and the commissions earned on his route while he was away shall be paid to him immediately upon his return.

For the purpose of determining the number of calendar years worked there shall be included: (a) all services for any prior Employer where the business of the prior Employer was merged, consolidated with or acquired in whole or in part by the Employer party to this Agreement or the predecessor of such Employer except that this shall not apply to a merger, consolidation or acquisition prior to October 24, 1959 except where such credit is presently given; (b) mandatory active duty service in the armed forces of the United States embarked upon after the commencement of employment.

2. Whenever employment is terminated for any reason, accrued vacation pay and commissions shall be paid to the employee as soon as practicable. The commissions for the vacation period shall be based upon an equal period of time immediately preceding the termination of employment.

3. Any employee on leave because of illness at the time of his regularly scheduled vacation may upon his request accept payment in lieu of vacation; provided, that if the acceptance of such payment would prejudice the employee's rights under any Mutual Benefit Plan or under the Workmen's Compensation Laws, the employee shall be so informed by the company at the time he makes the request.

3.(a) An employee who because of illness receives vacation pay prior to his vacation period shall, if he so elects, be entitled to take his scheduled vacation time off without pay, and he must make known his intention to take his scheduled vacation time off at the time he receives his vacation pay.

4. Seniority lists together with vacation lists shall be posted in all plants, branches, garages, and warehouses at least two weeks before the start of vacations. Seniority in crafts in the plant, branch, garage or warehouse shall prevail in the picking of vacation time.

5. Vacation periods that become vacant as a result of illness, lay-off, or other causes shall be posted for bidding and shall be awarded to the senior bidder.

6. Any deliberate juggling or arranging of vacation schedules by an Employer in order to deprive an employee of his earned vacation credit shall be a violation of this contract.

7. Employees receiving a base wage plus commissions shall during their vacations receive both their base wage and the commissions earned on their routes.

8. Any employee taking a temporary position as a vacation relief man shall get his own route upon completion of his duties as a vacation relief man. All vacation relief positions posted must state if they are temporary or permanent.

9. For vacation pay each vacation relief man shall receive his regular day's pay plus weekly average commissions based on the four previous weeks of commission routes. Route riders shall during their vacations receive their wages including the commissions they would have earned if not on vacation.

10. Routemen shall write up their own books before and after vacation.

11. Changes shall not be made in a routeman's route while he is on his vacation unless he has been notified of such contemplated changes either (a) before leaving on his vacation or (b) by letter or by telegram. If the employee has informed the company of his address while on vacation, the notice must be sent to such address; otherwise a letter or telegram to his regular home address will constitute sufficient notice.

12. The wheel system for picking sections for vacation relief men shall, so far as practical, prevail in all companies.

13. An employee on vacation is privileged to bid by proxy.

14. Employees of garages at seashore branches shall receive their vacation during the same period as enjoyed by their craft members.

15. In the event Group Schedules are used in allotting vacation relief men, seniority in said Group Schedules shall prevail in picking vacations.

16. The vacation schedule for each year shall be posted no later than January 15th.

17. Wholesale and retail vacation relief employees shall bid for their vacation during the vacation period designated by the Employer on the basis of their seniority in the craft.

18. Vacation for Foremen. All foremen in all crafts shall pick for vacations with the other foremen in their respective crafts.

19. No employee shall work during his scheduled vacation unless there is no other employee available to do his work. If an employee does work during his scheduled vacation, he shall receive his normal vacation pay (which for commissioned employees shall include commissions earned on his route) and in addition he shall receive pay at the rate of time and one-half for all time worked. In addition to the aforesaid, commissioned

employees who work during their vacation shall receive normal commission earned during such time worked on the route he works during his scheduled vacation.

SCHEDULE "E"

AGREEMENT, made this day of 19 between
.....hereinafter known as the Employer,
and.....hereinafter known as the
Employee:

WITNESSETH:

1. The Employee agrees to deposit with the Employer the sum of Dollars to be known as "Cash Security," as a guarantee for the faithful performance of his employment, and hereby deposits, or has deposited with the Employer, the sum of Dollars at the time of the signing of this agreement, and agrees to complete the total of Dollars by paying not less than (\$) Dollars per week.

The Employer agrees to pay interest at the rate of 8% per annum on the amount deposited with it, calculated to the 31st day of December of each calendar year, or to the date of termination of Employee's employment, and shall have the right to use all or any part of the security in its business or to invest the same in such manner as it may, in its discretion, deem safe and proper. The security is to be held by the Employer until the expiration of thirty (30) days after termination of the Employee's employment at which time the Employee shall, upon the surrender of the Employee's copy of this Agreement, be paid the security with all unpaid interest, less personal obligations, if any, provided he has fully accounted for and delivered to the Employer all checks or monies collected or received by him for the Employer and has delivered and returned to the Employer all property of the Employer, including all books and records with all entries properly made and completed. The Security shall not be assignable by the Employee.

(If the Employee deposits securities in lieu of cash appropriate change in the foregoing provision may be made.)
(If the security is deposited by one other than the Employee, appropriate change in the foregoing provision may be made.)

2. Upon the request of the Employer, Employee agrees to completely fill out and execute the application for a fidelity bond, the cost of such bond to be assumed by the Employer.
3. The Employee, in consideration of his employment, further promises and agrees that upon the termination of his employment, for whatever cause, he will not, for a period of six (6) months following such termination, either for himself or for anyone else, directly or indirectly solicit orders from or serve any milk or dairy products to any of the customers of the Employer served by him during the last six (6) months of his employment by the Employer, or at any time disclose or furnish to any person or party, or

use for his own purposes or advantage, or for the purposes or advantage of any other person or party the names of any of the customers of the Employer. Employee expressly agrees that this covenant on his part is an independent covenant, which shall be enforceable notwithstanding any rights or remedies which Employee may have under any other provision of this Agreement, and is in no wise dependent on the circumstances under which the employment terminated. This clause shall be enforceable by the Employer or the Union on application to a court of appropriate jurisdiction.

4. This Agreement shall inure to the benefit of and be binding upon the legal representative of the parties hereto, and the successors and assigns of the Employer.

IN WITNESS WHEREOF, Employer has caused this Agreement to be executed by one of its officers and Employee has hereunto set his hand the day and year first above written.

Employer
By: _____

In the Presence of:

Employee

\$5.75

For all employees hired on or after July 1, 2005 Welfare Fund contributions and benefits shall begin after ninety (90) days of employment.

All of the foregoing contribution rates shall be subject to verification by the actuarial consultant to provide the benefits agreed to by the parties. The contribution rates agreed to herein for such Welfare Fund contributions shall not be increased during the term of the Agreement.

3. The Employer's Pension Fund contribution per straight time hour paid for up to a maximum of 40 hours per week and not to exceed 2,080 hours per work year shall be \$1.45.

PENSIONS-MAXIMUM

This is intended as a summary of existing benefits provided by the Local 584 Pension Plan, the actual terms and conditions of which are governed by the Plan's Trust Agreement, as amended from time to time by the Trustees. The benefit amounts set forth in this Article apply effective April 1, 2000, to all Participants employed on or after March 31, 2000, by Employers that contribute to the Pension Trust Fund pursuant to a Collective Bargaining Agreement.

A. Normal Pension

Eligibility

Must be age 65 or older, have earned at least 15 Pension Credits, and have been credited with at least 180 days of service in 2 consecutive Plan Credit Years which began with the year in which Participant reached age 63.

SCHEDULE "F" PENSION AND WELFARE PROGRAM

1. The pension and welfare programs as set forth in the Agreement and Declaration of Trust executed by the parties, the Pension and Welfare Plans adopted by the Trustees, and the resolutions and minutes of the Trustees presently existing are hereby approved and as hereafter amended in accordance with the said Agreement and Declaration of Trust, shall be continued in full force and effect for the term of this Agreement, with the following amendments:

2. The Employer's Welfare Fund contribution per straight time hour paid for up to a maximum of forty (40) hours per week, and not to exceed 2,080 hours per year, shall be:

5/01/05

1. Employees hired prior to December 1, 1984: shall be equal to Pension Credits earned multiplied by \$87.00.

The maximum Normal Pension is \$3,045 per month. The maximum number of Years of Pension Credits to be used is 35.

2. Employees hired on or after December 1, 1984:

The monthly amount of the Normal Pension is Years of Pension Credit multiplied by \$77. The maximum Normal Pension is \$2,695 per month and the maximum number of Years of Pension Credit to be used is 35.

B. Early Retirement

Eligibility

Must be age 55 or older, have at least 15 Pension Credits, and have been credited with at least 180 days of service in 2 consecutive years which began in the year you reach age 53.

The monthly amount of the Early Retirement Pension is the amount of the Normal Pension further reduced by $\frac{1}{2}$ of 1 percent for each month under age 65.

C. 35-Year Service Pension

- (a) For employees hired prior to December 1, 1984, the amount of the 35-year Service Pension shall be \$3,045 per month.

- (b) For employees hired on or after December 1, 1984 the amount of 35 year Service Pension shall be \$2,695 per month.

D. 30-Year Service Pension

- (a) For employees hired prior to December 1, 1984, the amount of the 30-year Service Pension shall be \$2,610 per month.
(b) For employees hired on or after December 1, 1984, the amount of the 30 years Service Pension shall be \$2,310 per month.

E. 25-Year Service Pension

- (a) For employees hired prior to December 1, 1984 the amount of the 25-year Service Pension shall be \$2,175 per month.
(b) For employees hired on or after December 1, 1984 the amount of the 25-year Service Pension shall be \$1,925 per month.

F. Statutory Pension

1. For employees hired prior to December 1, 1984, pension is computed by multiplying the years of pension credit by \$87.00 per Pension credit.

2. For employees hired on or after December 1, 1984, pension is computed by multiplying the years of pension credit by \$77.00
- G. All of the foregoing contribution rates shall be subject to verification by the actuarial consultant to provide the benefits agreed to by the parties.

- H. Any retail route which serves wholesale and/or retail vending and hereafter increases the amount of wholesale and/or retail vending now served, and any retail route which does not now serve wholesale and/or retail vending but hereafter begins to serve wholesale and/or retail vending shall be considered a wholesale route for purposes of pension and welfare contribution allocation.

- I. All of the foregoing contributions shall in no event be refunded, and shall in no event be increased except as specifically provided in this Agreement, regardless of the cost of benefits.
- J. In order for employees on a route to qualify for Pension and Welfare contributions at the retail rate, two-thirds (2/3) of the weekly product volume on such route must have been distributed solely to residences of ultimate consumers.

- K. The Local 584 Pension and Welfare Trust Funds Agreement and Declaration of Trust shall be amended to provide that a new contributing Employer shall be qualified for admission providing that contributions and benefits applicable to his employees shall be the same as those required by the Milk Industry Collective Bargaining Agreement and that admission of the new Employer shall not impair the actuarial soundness of the Funds and that such Employer shall be qualified for admission regardless of whether he is engaged in the Milk Industry, provided that he has entered into a written Collective Bargaining Agreement with the Union in accordance with the requirement of this paragraph. The Trust Agreement governing said Trust Funds shall be amended wherever necessary in order to comply with the terms of this contract. The rules and regulations of the Local 584 Pension Fund shall be amended to raise to age 70 the compulsory retirement age for employees with 35 years of credited service.

- L. In the event of the failure of any Employer to pay the contributions due to the Welfare and Pension Funds, or either of them, within five (5) days after written demand for payment by the Trustees pursuant to a resolution of the Board adopted at a regularly scheduled Trustees' meeting, the Union may thereupon give five (5) days notice in writing to the Employer that unless payment is made within such period, the Union will take strike action, and such action will not be a violation of this Agreement.

This provision shall also be included in collective bargaining agreements of the Union with contributing Employers who are not signatories to the Milk Industry Collective Bargaining Agreement.

The Agreement and Declaration of trust shall be amended whenever necessary in order to comply with the terms of this contract.

M. The existing Severance Plan is as follows:

The amount of the Severance Benefit, payable in a lump sum is \$100.00 multiplied by the number of a Participant's Pension Credits earned during the Contribution Period, but not exceeding \$2,000.00 in total. If a Participant receives a Severance Benefit and later returns to employment in the industry, he shall become liable to make such repayment and later becomes entitled to a pension from this Plan, the amount of the Participant's monthly pension shall be reduced in accordance with a formula of formulas adopted by the Trustees, based on the principles of overall actuarial equivalence and equitable adjustment for the prior receipt of the Severance Benefit.

If a Participant who permanently withdraws from the industry is entitled to both a Severance Benefit and a Statutory Pension, he shall elect in writing in a form prescribed by the Trustees, one of the following methods of payment:

- (a) no lump sum Severance Benefit and, upon the attainment of the appropriate age, for payment of a Statutory Pension, a Statutory Pension in the full amount, or
- (b) a lump sum Severance Benefit and, upon the attainment of the appropriate age for payment of a Statutory Pension, the amount of the Participant's monthly Statutory Pension shall be reduced in accordance with a formula or formulas adopted by the Trustees based on the principles of overall actuarial equivalence and equitable adjustment for the prior receipt of the Severance Benefit.

N. In the event of a disputed discharge with respect to which the Union serves written notice of arbitration pursuant to this contract within two weeks after notice of said discharge, the Trustees of the Welfare Fund shall provide Welfare benefits to the employee discharged until the date the arbitration award is issued.

O. Periodically, the actuarial consultant to the Pension Fund shall review the status of the Pension Fund to determine if the contribution rate, based upon the number of employees for whom contributions were made during the preceding period, was sufficient to fund the Pension Plan on a sound actuarial basis over the 20-year amortization period.

P. Part B Medicare premium to be paid at rate in effect at time of retirement for new retirees including announced increase to \$54.00 effective January 1, 2002. Premium payments to stay at same level for other retirees.

Q. Husband and Wife Option

General: The Husband-and-Wife Pension provides a lifetime pension for his (or her) surviving spouse starting after the death of the Participant. The monthly amount to be paid to the surviving spouse is either 50% or 100% option depending upon which has been elected.

The person shall be paid in the form of 50% Husband-and-Wife pension unless the participant, with the consent of his/her spouse, has filed with the Trustees, a timely rejection of that form of pension.

50% Husband-and-Wife Pension

The monthly amount to be paid to the surviving spouse is 50% of the monthly amount payable to the Participant. Effective April 1, 1998 for Participants employed on or after March 31, 1998, the Participant's monthly pension amount shall not be reduced for payment of this form of pension.

100% Husband-and-Wife Pension

Effective April 1, 1998, for Participants employed on or after March 31, 1998, the monthly amount to be paid to the surviving spouse under the option is 100% of the monthly amount payable to the Participant, which monthly amount shall be reduced in accordance with the following formula:

For all but Disability Pensions: 90% plus .4% for each year the spouse is older than the Participant or minus .4% for each year the spouse is younger than the Participant.

For Disability Pensions: 77.5% plus .4% for each year the spouse is older than the Participant or minus .4% for each year the spouse is younger than the Participant.

For Statutory Pensions: 88% plus .4% for each year the spouse is older than the Participant or minus .4% for each year the spouse is younger than the Participant.

SCHEDULE "G" (Deleted)

SCHEDULE "H"

All grades and sizes of milk, skim milk, flavored or cultured milks, and flavored milk drinks.

All grades and sizes of cream, sweet or sour, or half-and-half.
Fruit juices, fruit drinks and ales.

Eggnogs.

Butter, all sizes, salted and sweet.

All grades and sizes of eggs.

All sizes and flavors of yogurt.

Oleomargarine.

All sizes and types of soft and hard cheeses, cheese foods, spreads or dips, however packaged.

All sizes of skim or whole milk powder.

Goat's milk.

Low sodium milk.

Acidophilus.

Low calorie liquid or frozen diet.

Any whip topping.

Any substitute for milk and milk products packaged in generally the same size as present.

Baked goods (except bread), soda, coffee.

- (3) On each route which has been found capable of being covered within 40 working hours per week under normal circumstances, based on the experience of the preceding two months, there shall be no overtime due or payable unless the route craft employee in question presents at or before the end of the given work week a signed statement specifying the number of hours actually worked that week together with the reasons or conditions which have in said week rendered the work incapable of being completed with reasonable diligence in 40 working hours. The Employer shall record in some permanent document or book the facts relating to working time as set forth in the employee's said statement for the week in question, but if the amount of time claimed is disputed by the Employer the amount finally agreed upon or determined under the procedures of the current collective bargaining agreement shall be entered as the actual working time of the employee for the week in question.

- (4) The information set forth in Paragraphs (1), (2) and (3) of this Award shall be recorded by the Employer in some form of permanent record or records, either cards, sheets, or books, and this shall be deemed to be each route craft employee's time card and part of his original payroll record, and shall constitute the method by which the Employer records the working time of each such employee.

SCHEDULE "J" (Deleted)

- (1) Each Employer shall establish for its route craft employees as a group or for sub-groups or each individual employee a specified reporting time, which shall be treated presumptively as the employee's starting time. If any employee is directed to report earlier than usual, the Employer shall record such earlier hour, and if an employee reports late the Employer will have to make some provision for having this fact recorded. Otherwise, the scheduled starting time for each employee will be treated as his actual starting time. If any of the conditions described in C.5 of Schedule "B" of the current collective bargaining agreement arises, and the Employer desires to take the benefit of the leeway of one hour there provided, the Employer must note this fact on the record kept for that day. When the route craft employee turns in his cash at the end of the day, the cashier or some other employee or supervisor designated by the Employer shall stamp the hour on the employee's book or in some other appropriate permanent record, in each case of course with the date noted. Such procedures shall be the least any Employer shall follow. Those electing to keep more detailed records or to continue more elaborate procedures now in use may do so at their discretion

- (2) The foregoing, however, will not be deemed to be a record of any employee's working time. It is merely an outside limit of his possible working hours. Various time deductions therefrom must be made, some definite and some variable and indeterminable in advance. Obviously, eating time of 45 minutes each day must be subtracted, and a similar course must be followed for accidents or breakdowns meeting the description set

SCHEDULE "R"

UNITS	DRINKS	UNITS	PUDDINGS	UNITS
HOMOGENIZED Gal. Plastic.....4	Orange ½ Gal.....2		PUDDINGS 0.1lb. Tub.....10 3 Oz.....1/4	
Gal. Paper.....4	Qts.....1			
20 Qt. Disp.....20	Pts.....1/2		GELATIN 5 Oz.....1/4	
½ Gal.....2	10 Oz.....1/3		RICE & Lb. Tray.....10	
Qts.....1	½ Pts.....1/3		FRUIT JUICES	
Pts.....1	10 Oz.....1/4		Orange.....1/4	
½ Pts.....1/4	Tea ½ Gal.....2		Grapefruit.....1/4	
	Qts.....1		Pineapple.....1/4	
	Pts.....1/2		Prune.....1/4	
	10 Oz.....1/3		Apple.....1/4	
	½ Pts.....1/4		Tomato.....1/4	
			POTATO SALAD 10 Lb.....4	
			MACARONI SALAD 10Lb.4	
			COLE SLAW 10 Lb.....4	
			THICK SHAKE MIX GAL....4	
			SOFT ICE CREAM	
			Van. Gals.....4	
			Choc. Gals.....4	
			LO SODIUM MILK ½ Pt....1/4	
			LIGHT 'N LIVELY	
			½ Gals.....2	
			Qts.....1	
			Yogurt 8 Oz.....1/4	
			2 Lb. Cheese.....1	
			1 Lb. Cheese.....1/2	
			8 Oz. Cheese.....1/4	
			PUDDING SL. 5 Oz.....1/4	
			GELATIN SL. 5 Oz.....1/4	
			Egg Nog Qts.....1	
			WATER	
			Gal.....1	
			½ Gal.....1	
			Qts.....1	
			SHAKE A SHARE	
			1/3 Qt.....1/3	
			SWISS.....1/4	
			Sundae.....1/4	
			Dannon.....1/4	
			Non-Dairy (Case).....3	
			Half & Half Oz.....3	
			creamer cup case.....3	
			1.2 Pts. Choc. Milk.....1/4	

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EXHIBIT B

COLLECTIVE BARGAINING AGREEMENT

AGREEMENT made as of July 18, 2007, between Elmhurst Dairy, Inc. (herein called the "Employer" or "Company") and Milk Wagon Drivers and Dairy Employees, Local 584, International Brotherhood of Teamsters (herein called the "Union").

In consideration of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. COVERAGE

This Agreement applies to the Employer's processing plant and the term "employee" used in this Agreement means the utility craft group (utility, pasteurizer, foreman), maintenance craft group (mechanic apprentice, foreman), employed by the Company at its facility at 155-25 Styler Road, Jamaica, NY excluding laboratory employees and all other employees, guards and supervisors, as defined in the NLRA.

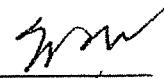
2. RECOGNITION

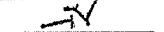
The Company recognizes the Union as the exclusive representative of its employees as set forth in Paragraph 1 for the purpose of collective bargaining.

3. UNION SECURITY

(a) All employees shall be required to become members of the Union within thirty (30) days after the date hereof or after their hiring, whichever is later. Subject to the provisions of all applicable laws, the Company agrees that all employees required to become Union members shall be required to maintain their membership as a condition of their employment.

07/18/2007 - 4:25pm





Union
Employer

(b) The Union agrees to indemnify and save harmless the Employer against any and all claims, suits, judgments, or liabilities arising out of, or in connection with, deductions from an employee's pay made by the Employer and remitted to the Union by way of initiation fee or dues as aforesaid.

The Company shall, to the extent permitted by law, deduct from the wages of the employees, upon written authorization of the employees, union dues, initiation fees and assessments. The amounts deducted pursuant to such authorization shall be transmitted monthly to the properly designated official of the Union, together with a list of names of the employees from whom deductions were made, on forms to be provided by the Union. Sums deducted by the Company as union dues, assessments shall be deemed trust funds.

4. PROBATIONARY PERIOD

Employees shall remain probationary and shall not become regular employees until after satisfactory completion of one hundred eighty (180) days of continuous service. Provided, that the classification of Apprentice Mechanic shall have a twelve (12) month apprenticeship period, which shall be such classification's probationary period. Probationary employees shall have no seniority rights and may be disciplined or discharged in the sole discretion of the Employer, without any recourse by the Union and the employees.

5. HOURS OF WORK

(a) Forty (40) hours per week, scheduled as either a five (5) day week consisting of five (5) eight (8) hour days or four (4) ten (10) hour days, shall constitute a normal week's work. Time worked in excess of forty (40) hours in a workweek or in excess of ten (10) hours per day for an employee scheduled to work four (4) ten (10) hour days per week or in excess of eight (8) hours per day for an employee scheduled to work five (5) eight (8) hour days per week shall be paid as overtime at the rate of time and one-half. This provision shall apply to Existing Employees as well as new employees.

6. WAGES

Effective July 18, 2007, each employee hired after July 18, 2007, covered under this Agreement shall receive the following wages:

Utility – starting rate of \$8.75 per hour. After completion of thirty (30) days, employees receiving the starting rate shall receive an increase to \$9.25 per hour.

Pasteurizer – starting rate of \$10.75 per hour. After completion of thirty (30) days, employees receiving the starting rate shall receive an increase to \$11.25 per hour.

Mechanic Apprentice- starting rate of \$13.00 per hour, for a one year apprenticeship period. A Mechanic Apprentice shall not receive any benefits during the apprenticeship period except as specifically provided in this Agreement. A Mechanic Apprentice shall receive holidays in accordance with Article 21 of this Agreement.

The wage rates set forth in this Article 6 shall increase by fifty cents (\$.50) per hour on September 1, 2008, and September 1, 2009.

7. CLOTHING ALLOWANCE

Effective July 18th and again on January 30th there shall be a clothing allowance in the amount of \$250.00 each. This provision shall apply to Existing Employees as well as new employees.

8. STRIKES AND LOCKOUTS PROHIBITED

There shall be no strikes, lockouts or stoppages of work during the term of this Agreement, but all grievances and disputes between the parties shall be adjusted in the manner set forth in Paragraph 18 below.

9. MILITARY SERVICE

In the event that an employee is conscripted into the Armed Forces of the United States or is called into service as a member of the National Guard or Army or Navy Reserves, the employee shall, upon his or her honorable discharge from service, be reinstated to his or her former position with the Company and with all rights and privileges enjoyed at the time the employee entered service, provided, however,

that the employee must request such reinstatement within ninety (90) days after his or her honorable discharge from service, and provided further that the Company shall have the right to discharge any person, whom it hired by reason of the entry into military service of the person so reinstated.

10. NONDISCRIMINATION; COMPLIANCE WITH LAWS

The Company and the Union agree not to unlawfully discriminate in the application of this Agreement against any qualified employee because of age, race, color, religion, gender, sexual orientation or affectional preference, marital status, national origin, mental or physical handicap/disability, or veteran status, as and to the extent prohibited by applicable federal, state or local law.

The Company may take all actions necessary to comply with the Americans with Disabilities Act, notwithstanding any other provisions of this Agreement.

The Company and the Union agree that the provisions of this Agreement shall be applied in a manner consistent with the Family and Medical Leave Act.

11. SEPARABILITY

If any provision of this Agreement shall be determined to be illegal or of no legal effect by a final decree of a court of competent jurisdiction or by the final decision of any authorized government agency, such provision shall be deemed null and void without affecting the validity of any other provision hereof.

12. MANAGEMENT RIGHTS

Subject to the provisions of this agreement it is recognized that the Company retains the right to exercise the customary functions of management in operating its business and facility, such rights shall include but not be limited to location of operations, types of equipment to be used or materials purchased or sold, and whether or to what extent any service or activities of any nature whatsoever shall be added, modified, eliminated, or obtained by contract with any other employer too, and

this right includes the right to hire and determine the number of employees in the facility or a department including the number assigned to any particular work, to increase or decrease that number, and job content and qualifications therefore, to change or combine the job content of any classifications, to determine when and where overtime shall be worked, to establish and schedule the working hours of the employees and to require safety devices and equipment, to layoff, discipline, discharge for just cause, suspend for just cause, transfer, promote and take any action considered necessary to establish and maintain efficiency and discipline. The Company shall have the right to maintain discipline and efficiency, and may discharge or suspend any employee for just cause. None of the rights set forth herein shall be exercised in an arbitrary or capricious manner.

The Employer, for the orderly, efficient and profitable operation of its business, reserves and retains solely and exclusively its right to plan, control, manage and direct its business, operations, personnel and property except as expressly limited by specific provisions of this Agreement.

13. SENIORITY

Seniority is the period starting from the date on which the employee is last hired by the Employer. Any employee shall cease to have seniority and employee status and shall be removed from the seniority list and payroll if the employee:

- (a) Resigns or quits.
- (b) Is discharged and is not subsequently reinstated by an arbitrator.
- (c) Is laid off for a period of twenty four (24) months or more.
- (d) Does not return to work within five (5) days after being recalled by telegram or registered or certified mail sent to his last known address or fails or refuses to make acceptable arrangements with the Employer for his return to work.

(e) Overstays a leave of absence, vacation, or other period of authorized time off.

The employer will furnish the Union with plan work and departmental lists upon request from the Union at reasonable intervals.

Layoff and recall shall be in accord with the appropriate company seniority list, provided, however, that the employees have the skills, ability and qualifications to perform the work.

14. LEAVES OF ABSENCE

The Employer will make leaves of absence available to employees in accordance with the terms of this Article and pursuant to the Employer's leave practices. In no event shall an employee's leave rights be less than those provided by applicable federal, state or local law.

(a) Medical Leave

An employee who has been employed by the Employer for at least one (1) year will be eligible for leaves of absence in connection with medical disabilities and illnesses, including periods of disability due to pregnancy, childbirth and maternity-related disabilities and illnesses.

Following an approved Medical Leave, an Employee will be eligible to return to his former position or a comparable position for which the Employee is qualified in accordance with the Employer's standard practices. In no instance will an Employee's reinstatement rights be less than those provided for under applicable federal, state or local law.

(b) Family Leave

Employees shall be eligible to receive Family Leave in accordance with the Employer's Family Leave policies and practices.

During an approved Family Leave, the Employer will continue an Employee's medical insurance coverage on the same basis as such coverage is provided to active employees.

Following an approved Family Leave, an Employee will be eligible to return to his former position or a comparable position for which the Employee is qualified in accordance with the Employer's standard practices. In no instance will an Employee's reinstatement rights be less than those provided for under applicable federal, state or local law.

(c) Additional Unpaid Leave

An employee who wishes to apply for additional unpaid leave should consult the Employer's Human Resources Department.

15. ABSENCE OF UNION REPRESENTATIVES

Upon reasonable notice in advance to the Employer, Union representatives shall be given reasonable and necessary time off to attend to Union business.

16. VISITATION

A duly authorized representative of the Union may be allowed to enter the plant during working hours.

17. DISCHARGE OR DISCIPLINE

In the event the Union and the affected employee challenge the discharge or discipline, the matter shall be disposed of in accordance with the grievance and arbitration provisions of the Agreement.

18. GRIEVANCE AND ARBITRATION

Grievances as to the meaning, interpretation or application of the provisions of this Agreement shall be settled in the following manner:

(a) If an employee believes he has a grievance, the aggrieved employee and/or his shop steward may attempt to adjust the same with the employee's immediate supervisor within five (5) working days of the occurrence of the matter complained of, and if the grievance is not adjusted by such discussion, or if the employee does not desire such discussion, the grievance must be reduced to writing, signed and dated by the aggrieved employee and/or the steward, and presented to the immediate supervisor within five (5) working days. The immediate supervisor will supply the steward with a written answer within an additional five (5) working days. If the answer is satisfactory, the steward will sign off and date all copies of the grievance including satisfactory settlement. If the answer is unsatisfactory, the steward will so indicate on the grievance and return it to the immediate supervisor.

(b) If the grievance is not resolved at the prior step, the Chief Steward and General Manager or designee within an additional five (5) working days. If it is necessary to facilitate grievance handling, a Union representative and the steward, or both, may also be present for all or part of the discussion. The Employer will provide the Chief Steward with a written answer within an additional five (5) working days.

(c) If the grievance is not resolved, then it may be referred to arbitration within an additional ten (10) working days. If the parties cannot agree upon an arbitrator then the party seeking arbitration shall serve notice in writing upon the

other party, setting forth its grievance and shall file a copy of said notice with the American Arbitration Association. An arbitrator who is a member of the National Academy of Arbitrators shall be selected in accordance with the said Association's Voluntary Labor Arbitration Rules then in effect, and the parties as well as the aggrieved employee shall be bound by his award. Should either party willfully or deliberately default in appearing before the arbitrator after due notice, then in such event the arbitrator may proceed to hear the case and render an award which shall be final and binding.

(d) The expenses and costs of the arbitration shall be shared equally between the parties, but witnesses' costs shall be borne by the party submitting the evidence. The arbitrator shall not hear more than one grievance unless the parties otherwise agree, in writing, that he may do so.

(e) At either party's request, a stenographic record or recording of the arbitration hearing may be made, the cost thereof to be borne by the party making the request, except that the other party shall bear the cost of a copy of the transcript or copy of such other record of the proceedings which it requests.

(f) In no event, shall any arbitrator have any power or authority to alter, modify, amend, add, or subtract from any of the terms or provisions of this Agreement.

19. NO STRIKE, NO LOCKOUT

(a) The Union agrees for itself and its officers, agents and representatives, as well for the employees covered by this Agreement, that it will not call, threaten or sanction any strike during the term of this Agreement. By "strike" is meant a sit-down, sit-in, slow-down, picketing, boycott, work stoppage, or any interference with or disruption of the Employer's operations or business.

(b) In the event of an unauthorized strike the Union will take all positive action and steps to instruct the employees to refrain and cease and desist from such strike.

(c) The Employer agrees that, during the term of this Agreement, it will not engage in any lockout of the employees covered thereby.

20. VACATIONS

Based upon continuous service, full time employees are eligible for vacation according to the following schedule:

Less than three (3) years - no vacation;

After three (3) years - two (2) weeks.

(a) Vacation pay is paid at the rate of pay in effect at the start of the employee's vacation or at the time an advance payment is requested.

(b) Vacation Days shall be taken during the calendar year following the calendar year in which they are earned. Any vacation time that is not taken during the calendar year cannot be accumulated and will not be carried over to the following year unless the vacation was not taken at the request of the Employer.

(c) The vacation period will be from January 1 to December 31, subject to approval and scheduling by the Employer.

(d) Subject to prior approval and scheduling by the Employer and the other terms of this Article 19 and the Employer's vacation scheduling policies and procedures, vacation may be scheduled and used in units of not less than one day. However, employees are encouraged to schedule and take vacation days in minimum increments of one week.

(e) Unless applicable law provides otherwise and except as provided elsewhere in this Article 19, employees who resign with at least two (2) weeks advance notice to the Employer, and employees who are discharged for other than just

cause will receive pro-rated vacation pay for the unused vacation for the portion of the year worked by the employee during the calendar year in which the employment terminates.

(f) Employees may not apply for or receive vacation and Employer shall not be obligated to consider any vacation request from an employee who has taken an approved Family Leave, Medical Leave or other approved leave until such time as the employee has returned to active employment for the shorter of (a) a period of time equal in length to the duration of the approved Family Leave, Medical Leave or other approved leave, or (b) sixty (60) calendar days.

21. DEATH IN FAMILY

In the event of a death in the immediate family of an employee of which the Employer is notified within two (2) weeks of the date of death, the Employer shall pay the employee for working time lost as the result of such death, but the period of time during which pay may be claimed shall not exceed three (3) successive days, exclusive of days of rest. The immediate family shall mean only parents, spouse, children, brothers and sisters of employee.

22. HOLIDAYS

(a) Eligible full-time employees, who have completed their probationary period, will be paid for their normal straight time rate of pay for the following holidays not worked:

Washington's Birthday
Memorial Day
Independence Day/July 4th
Labor Day
Thanksgiving Day
Christmas Day
New Year's Day

In order to receive holiday pay on a holiday not worked, the employee must have worked the scheduled work days before and after the holiday.

23. SICK LEAVE

(a) Full time employees who have completed one (1) year of service will be entitled to receive a maximum of up to two (2) days sick leave without loss of straight-time pay in each calendar year, if the following requirements are met:

(i) The employee must immediately notify the Employer of the nature of his illness and his expected return to work.

(ii) The employee must have a genuine illness which prevents him from properly performing work for the Employer.

(b) Sick leave shall not carry over or be cumulative in any succeeding year or years.

(c) Pro-rata payment in lieu of unused sick leave will be made to an employee at the end of the calendar year.

(d) Sick leave benefits shall not be applicable if the employee is receiving another benefit, such as holiday or vacation, or if the employee is not on the active payroll, such as leave of absence or layoff.

24. MEDICAL INSURANCE

The Employer shall contribute to the Local 584 Health and Welfare Fund for the full time bargaining unit employees who have completed their probationary period with individual coverage under a GHI group program, with prescription and without dental or vision coverage, at the rate of two dollars and ten cents (\$2.10) per hour.

25. PENSION

The Employer shall provide full-time bargaining unit employees who have completed their probationary period with a pension provided by the Local 584

Pension Fund by contributing at the rate of \$1.45 per hour to all employees hired on or after July 18, 2007.

26. PLANT MOVING

This Agreement shall cover and apply to the Employer in the event it moves its present operations within a one hundred (100) mile radius of its Jamaica, New York facility during the term of this Agreement.

27. SUBSTANCE ABUSE

(a) The Employer and the Union recognize that the Employer and its employees are subject to the requirements of the Drug Free Work Place Act and that it is the Employer's policy to provide and maintain a safe, drug and alcohol free work environment. The parties further recognize that the abuse of alcohol and the use of illegal drugs and controlled substances, whether on the job or off the job, can adversely affect an employee's job performance and jeopardize the safety of other employees, the public and the Employer's property and equipment. It is, therefore, agreed that the Employer shall take disciplinary action, in accordance with the terms of this Article and the Employer's policies and practices relating to the use and possession of drugs, alcohol and other controlled substances against employees who use or are under the influence of alcohol during working hours or on Employer property or who unlawfully use, distribute or possess narcotic drugs or controlled substances during or outside working hours on or off of the Employer's property.

(b) Any employee who is under the influence of alcohol, narcotic drugs or controlled substances during working hours or on the Employer's property, or who engages in the use of alcohol or the illegal use, sale or possession of narcotic drugs, or controlled substances, during working hours or on the Employer's property shall be subject to discipline up to and including discharge in accordance with the policies and practices set forth from time to time in the Employer's Employee Handbook and as administered by the Employer's Human Resources Department. Any illegal

substances will be turned over to the appropriate law enforcement agency and may result in criminal prosecution.

28. EXISTING EMPLOYEES

Employees on the Employer's payroll prior to July 18, 2007 ("Existing Employees"), shall except as provided in this Agreement continue their employment under the terms and conditions provided for by the Collective Bargaining Agreement between Employer and the Union which expired July 1, 2007, 12:01 a.m.

29. SAVINGS AND SEPARABILITY

If any Article or Section of this Agreement should be held invalid by operation of law or by any tribunal or court of competent jurisdiction, or if compliance with, or enforcement of any Article or Section should be restrained by such tribunal or court, then the remainder of this Agreement and the application of such Article(s) or Section(s) to persons or circumstances other than those to which it has been held invalid or as to which compliance with or enforcement of has been restrained shall not be affected thereby, and shall continue in full force and effect during the term of this Agreement.

30. TERMINATION AND RENEWAL

This Agreement shall remain effective and binding upon the parties and their successors until August 31, 2010. If either of the parties shall desire to terminate or to make any changes, modifications or additions in this Agreement at the expiration thereof, it shall notify the other party of such desire in writing at least sixty (60) days prior to the date of the expiration of the Agreement. In the absence of such timely notification, this Agreement shall be automatically renewed and extended for an additional period of one (1) year under the same terms and conditions. Provided that either party may, upon sixty (60) days notice to the other party, reopen this Agreement effective September 1, 2008, with respect to the terms and conditions of employment of the Existing Employees as defined in this Agreement. Notification under this Paragraph

shall be made by Certified Mail, Return Receipt Requested, addressed to the President of the Union at 73 Hudson Street, New York, NY 10013 and to the Vice President and General Manager at 155-25 Styler Road, Jamaica NY 11433. In the event the parties fail to reach an agreement the Union shall have the right to strike and the Employer shall have the right to lockout its employees.

31. COMPLETE AGREEMENT

This Agreement constitutes the sole and complete agreement between the parties and embodies all the terms and conditions governing bargaining unit employees.

The parties acknowledge that they have had the opportunity to present and discuss proposals on any subject for collective bargaining and that each party for the life of this Agreement voluntarily waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter not specifically referred to or covered in this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands this 16 day of July, 2007.

MILK WAGON DRIVERS AND DAIRY
EMPLOYEES, LOCAL 584,
INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

By:


WILLIAM WHELAN
PRESIDENT

ELMHURST DAIRY, INC.

By:

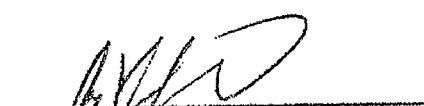

JAY VALENTINE
V.P. & GENERAL MANAGER

EXHIBIT C

MEMORANDUM OF AGREEMENT

It is hereby agreed by and between Teamsters Local 584 ("Union") and the Milk Industry Labor Association of New York ("MILA") for and on behalf of the MILA members ("Employers") that the contract that expired on June 30, 2007 is hereby extended until September 1, 2008 with the following modifications:

1. There shall be a general wage increase of \$1.00 per hour effective September 1, 2007 for employees in Craft Group I and truck mechanics;
2. Those MILA members who currently employ Local 584 members in Craft Groups other than Craft Group I shall adopt and be bound by the terms of the contract between the Union and Elmhurst Dairy Inc., insofar as said contract applies to "New Hires" which shall be defined as any new hire in such Craft Group who was not a member of the Union as of July 1, 2007.

Dated at Queens, NY
This 5th day of September, 2007

For the Union

s/ William Whelan

For MILA

Joseph J. Brancazia
Louis Abramson
Lewis Miller
John LePare

X

CORRECTED MEMORANDUM OF AGREEMENT

It is hereby agreed by and between TEAMSTERS LOCAL 584 ("Union") and the
~~MILK INDUSTRY LABOR ASSOCIATION OF NEW YORK ("MILA")~~ for and on
behalf of its member-employers that the collective bargaining agreement ("CBA") that
expired, by its terms, on September 1, 2008, shall be extended until August 31, 2010 with
the following modifications:

1. Employees in Craft Group 1, truck mechanics, bargaining unit employees
other than utility employees covered by the agreement made September 18, 2008
(erroneously dated October 18, 2008) between the Union and Elmhurst Dairy, Inc. who
did not receive the wage increase of September 1, 2007 shall receive a general wage
increase of seventy-five cents (\$.75) per hour effective September 1, 2009.
2. The clothing allowance shall be Two Hundred Fifty Dollars (\$250.00)
payable every six (6) months, with the first payment to be made January 15, 2009.
3. Those MILA members who employ Union members with hire dates that
precede July 18, 2007, other than those in Craft Group 1 and truck mechanics, shall be
bound by the terms of the contract between the Union and Elmhurst Dairy, Inc. of
September 18, 2008 insofar as said contract fixes the wage increases for said employees
for the term of this Agreement.
4. The allowance for hand trucks shall be increased from Twenty-five
Dollars (\$25.00) to Seventy-five Dollars (\$75.00) annually.
- 5a. Effective September 1, 2008 the starting minimum rates for drivers shall
be:

Commission Drivers

\$14.65/hr

Non-Commission Drivers

\$16.00/hr plus \$18.00/hr for can routes

b. Effective September 1, 2009 the starting and minimum rates for drivers shall be:

Commission Drivers

\$15.40/hr

Non-Commission Drivers

\$16.75/hr plus \$18.00/hr for can routes

6. The Union shall provide a letter to MILA stating it will not object to any

MILA member positioning security cameras on their premises.

7. This Agreement shall be subject to ratification by the Union members.

Dated at Queens, NY
This 23rd Day of September 2008

For the Union

s/ W. Whalen

For the Employer

s/ Jerry Rosen

s/ Louis Abramson

s/ Ronald Silver

s/ Joseph J. Brancazio

EXHIBIT D

1. This Collective Bargaining Agreement is between Elmhurst Dairy, Inc. ("Elmhurst") and Local 584, I.B.T. ("Union") covering Union employees referred to as "Existing Employees" in that Collective Bargaining Agreement (the "Agreement") between the parties dated July 18, 2007.

2. As hereinafter used the following definitions shall apply:

"Existing Employees" shall mean all employees on the payroll of Elmhurst prior to July 18, 2007.

"New Hires" shall mean all employees on the payroll of Elmhurst hired after July 18, 2007, other than Craft Group I employees, and truck mechanics.

3. The Agreement shall be extended to August 31, 2010 with the modifications hereinafter set forth.

4. ~~The~~ The Union shall provide a letter to Elmhurst stating it will not object to Elmhurst positioning security cameras on the premises.

5. There shall be a general wage increase of \$1.00 per hour, retroactive to September 1, 2008.

6. Elmhurst shall initiate a "Buy Out Program" which shall be offered to Existing Employees. Elmhurst anticipates that a minimum of 25 Existing Employees will accept the Buy Out Program. In the event however, that less than 25 such Existing Employees have accepted the Buy Out Program as of September 2009 the general wages shall be reduced by .50¢ per hour.

If as of March 1, 2010 less than a total of 50 such Existing Employees have accepted the Buy Out Proposal then the general wages shall be further reduced by 25¢ per hour.

7. A clothing allowance of \$350 payable every six (6) months, with the first payment to be made October 31, 2008. This provision to apply to New Hires and Existing Employees.

Dated: October 18, 2008

ELMWOOD DAIRY, INC

By Ray Valentine
RAY VALENTINE

LOCAL 584 I.B.T.

By William Wheeler
WILLIAM WHEELER

CORRECTED MEMORANDUM OF AGREEMENT

1. This Collective Bargaining Agreement is between Elmhurst Dairy, Inc. ("Elmhurst") and Local 584, I.B.T. ("Union") covering Union employees referred to as "Existing Employees" in that Collective Bargaining Agreement (the "Agreement") between the parties dated July 18, 2007.
2. As hereinafter the following definitions shall apply:
"Existing Employees" shall mean all employees on the payroll of Elmhurst prior to July 18, 2007.
"New Hires" shall mean all employees, and truck mechanics.
3. The Agreement shall be extended to August 31, 2010 with the modification hereinafter set forth.
4. The Union shall provide a letter to Elmhurst stating it will not object to Elmhurst positioning security cameras on the premises.
5. There shall be a general wage increase of \$2.00 per hour, retroactive to September 1, 2008.
6. Elmhurst shall initiate a "Buy Out Program" which shall be offered to Existing Employees. Elmhurst anticipates that a minimum of 25 Existing Employees will accept the "Buy Out Program." In the event, however, that less than 25 such Existing Employees have accepted the Buy Out Program as of September 2009 the general wages shall be reduced by .50¢ per hour.

If as of March 1, 2010, less than a total of 50 such Existing Employees have accepted the Buy Out Program Proposal then the general wages shall be further reduced by .25¢ per hour

7. A clothing allowance of \$250 payable every six (6) months, with the first payment to be made January 15, 2009. This provision to apply to New Hires and Existing Employees.

Dated: October 18, 2008

ELMHURST DAIRY, INC.

By: JAY VALENTINE
JAY VALENTINE

LOCAL 584, I.B.T.

By: William Whelan
WILLIAM WHELAN

EXHIBIT E



BOND, SCHOENECK & KING, PLLC
ATTORNEYS AT LAW ■ NEW YORK FLORIDA KANSAS

ROBERT A. DOREN, ESQ.
Regional Managing Member
Direct: (716) 566-2833
Fax: (716) 566-2834
Mobile: (716) 870-6480
rdoren@bsk.com

June 22, 2010

VIA FAX

Federal Mediation Conciliation Service
Notice Processing Unit
2100 K Street, NW
Washington, DC 20427

Re: *Contract negotiations
Elmhurst Dairy, Inc. and Milk Wagon Drivers and Dairy Employees Local 584*

Dear Sir or Madam:

We represent Elmhurst Dairy, Inc. in the renegotiation of the Company's collective bargaining agreements which are set to expire on August 31, 2010. The Company's first collective bargaining agreement is a multi-employer agreement with the Milk Wagon Drivers and Dairy Employees Local 584 and The Metropolitan Dairy Employers of the City of New York. The second collective bargaining agreement is the Company's local agreement with the Milk Wagon Drivers and Dairy Employees Local 584. Enclosed are two FMCS Form F-7 notices pursuant to the statutory notice obligations under Section 8(d) of the National Labor Relations Act.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

BOND, SCHOENECK & KING, PLLC

Robert A. Doren
RAD/dlo

Enclosures

cc: William J. Whelan, President (*w/encls.*)
Milk Wagon Drivers & Dairy Employees Local No. 584



BOND, SCHOENECK & KING, PLLC
ATTORNEYS AT LAW ■ NEW YORK FLORIDA KANSAS

ROBERT A. DOREN, ESQ.
Regional Managing Member
Direct: (716) 566-2833
Fax: (716) 566-2834
Mobile: (716) 870-6480
rdoren@bsk.com

June 22, 2010

VIA FAX

New York State Employment Relations Board
86 Chambers Street, Suite 201
New York, NY 10007

Re: *Contract negotiations*
Elmhurst Dairy, Inc. and Milk Wagon Drivers and Dairy Employees Local 584

Dear Sir or Madam:

We represent Elmhurst Dairy, Inc. in the renegotiation of the Company's collective bargaining agreements which are set to expire on August 31, 2010. The Company's first collective bargaining agreement is a multi-employer agreement with the Milk Wagon Drivers and Dairy Employees Local 584 and The Metropolitan Dairy Employers of the City of New York. The second collective bargaining agreement is the Company's local agreement with the Milk Wagon Drivers and Dairy Employees Local 584. Enclosed are two FMCS Form F-7 notices pursuant to the statutory notice obligations under Section 8(d) of the National Labor Relations Act.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

BOND, SCHOENECK & KING, PLLC

Robert A. Doren
RAD/dlo

Enclosures

cc: William J. Whelan, President (*w/encs.*)
Milk Wagon Drivers & Dairy Employees Local No. 584

EXHIBIT F

MEMORANDUM OF AGREEMENT

This Agreement applies to the Employers processing plant and the term "employee" means the utility craft group (utility, pasteurizer, foreman, maintenance) craft group (mechanic apprentice foreman) employed at Employers processing plant.

Employees who are members of the Union on the Employer's payroll prior to July 18, 2007 ("Existing Employees") shall, except as modified herein, continue their employment under the terms and conditions provided for by the collective bargaining agreement between the Union and MILA in effect September 1, 2011 to August 31, 2015.

The term "New Hires" shall mean all utility craft group employees hired after July 18, 2007.

CHANGES

1. TERM: Five (5) years 9/1/10 to 8/31/15
2. HOLIDAYS: The following are designated holidays for all New Hires in the plant :
President Day
Memorial Day
Independence Day/July 4th
Labor Day
Thanksgiving Day
Christmas Day
New Years Day
Martin Luther King Day
3. WELFARE: All New Hires upon reaching the first anniversary of their date of hire shall be provided with single coverage health insurance under the GHI-EPO (in network) prescription drugs, vision and dental and Employer shall contribute \$2.50 hour effective September 1, 2011. Employees hired after September 1, 2011 may elect on their first anniversary to receive the medical insurance or \$1,000 payable on their first anniversary date and each anniversary thereafter during the term of this Agreement in lieu of any health insurance. This one time election shall be for the term of the collective bargaining agreement.
4. DEFINED CONTRIBUTION PLAN – All employees hired after September 1, 2011 upon completion of their probationary period shall, in lieu of the Union pension plan, be enrolled in a defined contribution annuity plan providing individual accounts with annual contribution rate to be \$.57/hr and raised \$.05/hr in each subsequent year of the Agreement. In addition, the Company will pay \$.03/hr for such employee's administration costs to the plan.

5. VACATIONS - Employees hired after January 1, 2009 and before January 1, 2010, and on the payroll as of the date of ratification, shall be entitled to two weeks vacation in the calendar year January 1, 2012 and each calendar year thereafter. Employees hired after January 1, 2010 shall be entitled to a pro rata share of the vacation benefit based on the rate of one week vacation which he will receive January 1st after his date of hire. Thereafter, after completion of one (1) year of employment, the employee will earn two (2) weeks vacation to be taken the next calendar year. Employees hired between January 1, 2010 and January 1, 2011, who remain employed as of the date of ratification, shall be paid for the pro rata vacation benefit in lieu of time off.

6. PROBATION - The probation period for New Hires shall be one hundred twenty (120) days.

7. WAGES - Employees hired before July 18, 2007 will receive the following increases:

9/1/11	9/1/12	9/1/13	9/1/14
\$.55/hr.	\$.55/hr.	-0-	-0-

8. Employees hired after July 18, 2007 and before September 1, 2011 will receive the following wage increases:

9/1/11-\$.50 per hour
9/1/12-\$.50 per hour
9/1/13-\$.50 per hour
9/1/14-\$.60 per hour

9. Employees hired on or after September 1, 2011 will be paid \$10.00 per hour. Wage increases for this group of employees will be the same as paragraph 8 above, for the duration of this contract. However, the wage increases shall take effect on the employee's anniversary dates which occur during this agreement, not the contract anniversary dates, i.e.:

On the First anniversary	- \$.50 per hour
On the Second anniversary	- \$.50 per hour
On the Third anniversary	- \$.50 per hour
On the Fourth anniversary	- \$.60 per hour

10. CLOTHING ALLOWANCE - The clothing allowance shall be increased to \$300 effective June 1, 2012, and payable to all employees in January and June of each contract year.

11. TOOL ALLOWANCE - Increase to \$350. Employer may request proof of purchase.

12. CDL LICENSE - Employer will reimburse any employee with three (3) years of service up to fifteen hundred dollars (\$1,500)for one time attendance at CDL training course provided employee presents proof of payment for a certified course and secures a CDL License within six (6) months of course completion.

13. LAY OFFS - Any present member of the Union who is laid off by an employer with employees under the jurisdiction of the Union and hired by another employer under the jurisdiction of the Union shall be subject to a thirty (30) day probation period, and the starting wage shall be the contract rate appropriate to the employee's seniority and the classification into which the employee is being hired by the new employer.

14. PENSION PLAN - Pension plan benefits and contribution rates for participants shall be as set forth in the Alternate Schedule, adopted and agreed to and shall be incorporated in the Collective Bargaining Agreement.

ELMHURST DAIRY, INC.

LOCAL 584, I.B.T.

By Jay Valentine
Jay Valentine
VP and General Manager

By Frank Wunderlich
Frank Wunderlich
Secretary Treasurer

Date 9/21/11

EXHIBIT G

MEMORANDUM OF AGREEMENT

It is hereby agreed by and between the Milk Industry Labor Association (M.I.L.A.) and its constituent members and Teamsters Local 584 that the collective bargaining agreement that by its terms expired on August 31, 2010 is hereby extended with the following modifications:

1. TERM: Five (5) years: 9/1/10 to 8/31/15
2. HOLIDAY: All Utility Employees hired on or after July 18, 2007 (hereinafter referred to as "New Hires") and all Employees hired on or after September 1, 2011: Eight (8) holidays including MLK
All employees hired before July 18, 2007: Eleven (11) holidays including MLK.
3. PROBATIONARY PERIOD
FOR "NEW HIRES": 120 days.
4. INITIATION FEES, DUES
& ASSESSMENTS:

Dues, Initiation Fees and Assessments shall be deducted from employee wages and paid to the Union after employees have been employed for thirty (30) days if the Union provides the Employers with a check-off authorization.

PENSION & WELFARE
CONTRIBUTION:

The Employers will contribute to the Welfare and Pension Fund for New Hires after One Hundred Eighty Days (180) of employment.

The Employers will contribute to the Pension Fund for all other employees from date of hire and to the Welfare Fund after Ninety (90) Days from date of hire.
5. VACATION FOR
NEW HIRES: All Utility employees hired on or after July 18, 2007 and to all Employees hired on or after September 1, 2011 who commenced work during the preceding calendar year shall receive a pro rata vacation during the first following calendar year based upon his service during the preceding calendar year at the rate of one (1) week vacation for twelve (12) months of employment. The vacations for new hires in the following years shall be two (2) weeks each year.

6. CLOTHING ALLOWANCE: Increase to \$300.00 effective June 1, 2012, payable in January and June of each contract year.
8. CDL LICENSE: The Employers will reimburse EMPLOYEES WITH THREE YEARS OF SERVICE up to \$1500.00 one time provided the employee presents proof of payment for a certified CDL training course and secures a CDL license within six (6) months of the completion of the course.
9. TOOL ALLOWANCE: Increase to \$350.00. Employer may request proof of purchase
10. WELFARE

NEW HIRES: For "New Hires" with single coverage under the GHI-EPO (in network only) vision and dental will be added to the insurance package and the Employers shall contribute \$2.50 per hour effective September 1, 2011.
For "New Hires", as defined herein, who are employed as of the date of this Memorandum of Agreement, and who have or who attain three (3) years of service shall, upon request, be provided with GHI-EPO (in network only) family plan coverage with prescription drugs, vision and dental effective after the employee provides the Welfare Fund Office with proof of dependents. The contribution rate for this coverage shall be determined by the Welfare Fund Trustees.
11. LAY-OFFS: Any present member of Local 584 who is laid off by an employer with employees under the jurisdiction of Local 584 and hired by another employer under the jurisdiction of Local 584, shall not be subject to a probationary period and the starting wage shall be the contract rate appropriate to the employee's seniority, and the classification into which the employee is being hired by the new employer.
12. ALL EMPLOYEES HIRED BEFORE JULY 18, 2007 OTHER THAN "NEW HIRES" (defined as employees in the Utility classification hired after July 18, 2007)
GENERAL WAGE INCREASES:

<u>9/1/11</u>	<u>9/1/12</u>	<u>9/1/13</u>	<u>9/1/14</u>
\$.40	\$.30	\$.25	\$.30

NEW HIRES
WAGE INCREASES:

\$.50	\$.50	\$.50	\$.30
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13. Article 8 (e) shall be immediately deleted from the collective bargaining agreement.

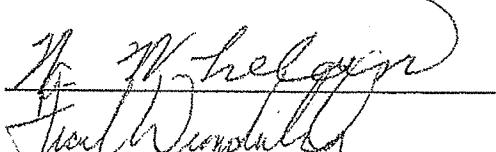
14. Any change in the terms and conditions of employment for the Utility classification agreed to by Elmhurst with the Union will apply to M.I.L.A.

15. The attached Alternate Schedule, which has been adopted and agreed to by M.I.L.A. members, shall be incorporated into the Collective Bargaining Agreement.

This Memorandum of Agreement is subject to ratification by the members of the Union

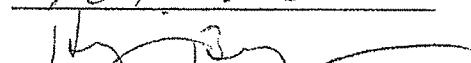
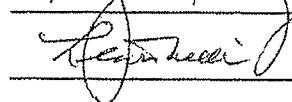
Dated at Queens, New York
This 14th day of July, 2011

For Teamsters Local 584:


Tom Wenzel

For the Milk Industry Labor Association



ALTERNATE SCHEDULE

Affected Participants

The benefit changes described in this schedule apply to participants retiring or terminating employment after the later of date the Alternative Schedule is adopted and the date that benefits can be eliminated allowing for legally required advance notification and whose employer elected this schedule.

Benefit Changes

For Participants hired before September 1, 2010:

1. The future benefit accrual rate under the Normal pension is reduced as follows:

	From	To
Participants hired before December 1, 1984	\$87	\$77
Participants hired on or after December 1, 1984	\$77	\$67
Participants employed by Constance Food Group	\$15	\$13.00

2. No other benefit changes for participants hired before September 1, 2010

For Participants hired on or after September 1, 2010:

1. The benefit accrual rate under the Normal pension will be \$30 per year of pension credit. For Constance Food group employees, the accrual rate will be \$7.80.
2. There are no Early Retirement benefits provided under the Early Retirement pension, 35-Year Service pension, 30-Year Service pension or the 25-Year Service pension. No retirement benefits will be payable prior to age 65.
3. The Disability pension is eliminated. Participants becoming disabled will be eligible for a deferred vested pension.
4. The pre-retirement death benefit of the 60 month guarantee is eliminated.
5. Partial pension credit for participants working less than 180 Days of Service is eliminated.

6. The subsidies in the 50%, 75% and 100% Husband and Wife forms of payments are eliminated. Currently the 50% Husband and Wife form is unreduced and the 75% and 100% are subsidized. These forms of benefits will now be reduced to the actuarial equivalent of a straight life annuity.

The plan of benefits may be amended for any further benefit changes required for the Fund to continue meeting the requirements to maintain its tax qualification under the Internal Revenue Code and comply with other applicable law.

Contribution Schedule for Alternate Schedule 3

Effective Date Beginning Of	Hourly Contribution Rate (except Constance Food)	Hourly Contribution Rate For Constance Food Group
Year 1	\$1.70	\$0.45
Year 2	1.90	0.50
Year 3	2.10	0.55
Year 4	2.30	0.60
Year 5	2.50	0.65
Year 6	2.70	0.70
Year 7	2.90	0.75
Year 8	3.10	0.80
Year 9	3.30	0.85
Year 10	3.50	0.90
Year 11	3.70	0.95
Year 12	3.90	1.00
Year 13	4.10	1.05
Year 14	4.30	1.10
Year 15	4.50	1.15

EXHIBIT H

MEMORANDUM OF AGREEMENT

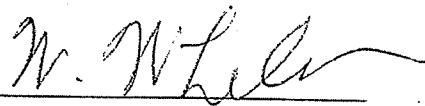
1. The collective bargaining agreement between Elmhurst Dairy, Inc. and Local 584 covering Union employees hired prior to July 18, 2007, referred to as "Existing Employees" in the collective bargaining applicable to employees hired on or after July 18, 2007, is further extended to August 31, 2015, except as follows:
 - a. On September 1, 2011, employees will receive a \$.55 per hour wage increase; on September 1, 2012, employees will receive an additional \$.55 per hour wage increase.
2. The economic wages and benefits applicable to employees hired prior to July 18, 2007 shall continue except as provided below:
 - a. The Company retains the right to determine the maximum number of employees that may be off on vacation during a work week based on production requirements.
3. The Union agrees to use its best efforts to increase the volume of milk processed by the Company.
4. Notwithstanding any provision in the MILA Agreement, laid off employees from another employer hired by Elmhurst Dairy after September 23, 2011 must complete a thirty (30) day probationary period.

ELMHURST DAIRY, INC.

LOCAL 584 I.B.T.

By: 
Jay Valentine
V.P. and General Manager

Date: Oct 27, 2011

By: 
William Whelan
President

Date: October 13, 2011

EXHIBIT I

COLLECTIVE BARGAINING AGREEMENT

AGREEMENT made as of September 21, 2011, and effective as of September 1, 2010, between Elmhurst Dairy, Inc. (herein called the "Employer" or "Company") and Milk Wagon Drivers and Dairy Employees, Local 584, International Brotherhood of Teamsters (herein called the "Union").

In consideration of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. COVERAGE

This Agreement applies to the Employer's processing plant and the term "employee" used in this Agreement means the utility craft group (utility, pasteurizer, foreman), maintenance craft group (mechanic apprentice, foreman), employed by the Company at its facility at 155-25 Styler Road, Jamaica, NY excluding laboratory employees and all other employees, guards and supervisors, as defined in the NLRA.

2. RECOGNITION

The Company recognizes the Union as the exclusive representative of its employees as set forth in Paragraph 1 for the purpose of collective bargaining.

3. UNION SECURITY

a. All employees shall be required to become members of the Union within thirty (30) days after hiring. Subject to the provisions of all applicable laws, the Company agrees that all employees required to become Union members shall be required to maintain their membership as a condition of their employment.

b. The Union agrees to indemnify and save harmless the Employer against any and all claims, suits, judgments, or liabilities arising out of, or in connection with, deductions from an employee's pay made by the Employer and remitted to the Union by way of initiation fee or dues as aforesaid.

The Company shall, to the extent permitted by law, deduct from the wages of the employees, upon written authorization of the employees, union dues, initiation fees and assessments. The amounts deducted pursuant to such authorization shall be transmitted monthly to the properly designated official of the Union, together with a list of names of the employees from whom deductions were made, on forms to be provided by the Union. Sums deducted by the Company as union dues, assessments shall be deemed trust funds.

4. PROBATIONARY PERIOD

Employees shall remain probationary and shall not become regular employees until after satisfactory completion of one hundred eighty (180) days of continuous service. Effective September 23, 2011, the probationary period is reduced to one hundred twenty (120) days of continuous service. Provided, that the classification of Apprentice Mechanic shall have a twelve (12) month apprenticeship period, which shall be such classification's probationary period. Probationary employees shall have no seniority rights and may be disciplined or discharged in the sole discretion of the Employer, without any recourse by the Union and the employees.

5. HOURS OF WORK

a. Forty (40) hours per week, scheduled as either a five (5) day week consisting of five (5) eight (8) hour days or four (4) ten (10) hour days, shall constitute a normal week's work. Time worked in excess of forty (40) hours in a workweek or in excess of ten (10) hours per day for an employee scheduled to work four (4) ten (10) hour days per week or in excess of eight (8) hours per day for an employee scheduled to work five (5) eight (8) hour days per week shall be paid as overtime at the rate of time and one-half. This provision shall apply to Existing Employees as well as new employees.

6. WAGES

A. Each employee hired before July 18, 2007 will receive a wage increase of \$.55 per hour on September 1, 2011, and \$.55 per hour on September 1, 2012.

B. Effective September 1, 2011, each employee hired after July 18, 2007, but before September 1, 2011, will receive wage increases as follows:

9/1/11 – \$.50 per hour
9/1/12 – \$.50 per hour
9/1/13 – \$.50 per hour
9/1/14 – \$.60 per hour

C. Utility – starting rate at \$10.00 per hour

Pasteurizer — starting rate of \$10.75 per hour. After completion of thirty (30) days, employees receiving the starting rate shall receive an increase to \$11.25 per hour.

Mechanic Apprentice- starting rate of \$13.00 per hour, for a one year apprenticeship period. A Mechanic Apprentice shall not receive any benefits during the apprenticeship period except as specifically provided in this Agreement. A Mechanic Apprentice shall receive holidays in accordance with Article 21 of this Agreement.

D. Employees hired on or after September 1, 2011 shall be hired at \$10.00 per hour. Wage increases for this group of employees will be the same as paragraph B above, for the duration of this contract. However, the wage increases shall take effect on the employees' anniversary dates which occur during this agreement, not on the contract anniversary dates, i.e.

On the First anniversary	– \$.50 per hour
On the Second anniversary	– \$.50 per hour
On the Third anniversary	– \$.50 per hour
On the Fourth anniversary	– \$.60 per hour

7. CLOTHING ALLOWANCE

Effective July 18th and again on January 30th there shall be a clothing allowance in the amount of \$250.00 each. Effective January 30, 2012 and each July and January thereafter, the clothing allowance shall increase to \$300.00. This provision shall apply to Existing Employees, as well as new employees.

8. STRIKES AND LOCKOUTS PROHIBITED

There shall be no strikes, lockouts or stoppages of work during the term of this Agreement, but all grievances and disputes between the parties shall be adjusted in the manner set forth in Paragraph 18 below.

9. MILITARY SERVICE

In the event that an employee is conscripted into the Armed Forces of the United States or is called into service as a member of the National Guard or Army or Navy Reserves, the employee shall, upon his or her honorable discharge from service, be reinstated to his or her former position with the Company and with all rights and privileges enjoyed at the time the employee entered service, provide, however, that the employee must request such reinstatement within ninety (90) days after his or her honorable discharge from service, and provided further that the Company shall have the right to discharge any person, whom it hired by reason of the entry into military service of the person so reinstated.

10. NONDISCRIMINATION; COMPLIANCE WITH LAWS

The Company and the Union agree not to unlawfully discriminate in the application of this Agreement against any qualified employee because of age, race, color, religion, gender, sexual orientation or affectional preference, marital status, national origin, mental or physical handicap/disability, or veteran status, as and to the extent prohibited by applicable federal, state or local law.

The Company may take all actions necessary to comply with the Americans with Disabilities Act, notwithstanding any other provisions of this Agreement.

The Company and the Union agree that the provisions of this Agreement shall be applied in a manner consistent with the Family and Medical Leave Act.

11. SEPARABILITY

If any provision of this Agreement shall be determined to be illegal or of no legal effect by a final decree of a court of competent jurisdiction or by the final decision of any authorized government agency, such provision shall be deemed null and void without affecting the validity of any other provision hereof.

12. MANAGEMENT RIGHTS

Subject to the provisions of this agreement it is recognized that the Company retains the right to exercise the customary functions of management in operating its business and facility, such rights shall include but not be limited to location of operations, types of equipment to be used or materials purchased or sold, and whether or to what extent any service or activities of any nature whatsoever shall be added, modified, eliminated, or obtained by contract with any other employer too, and this right includes the right to hire and determine the number of employees in the facility or a department including the number assigned to any particular work, to increase or decrease that number, and job content and qualifications therefore, to change or combine the job content of any classifications, to determine when and where overtime shall be worked, to establish and schedule

the working hours of the employees and to require safety devices and equipment, to layoff, discipline, discharge for just cause, suspend for just cause, transfer, promote and take any action considered necessary to establish and maintain efficiency and discipline. The Company shall have the right to maintain discipline and efficiency, and may discharge or suspend any employee for just cause. None of the rights set forth herein shall be exercised in an arbitrary or capricious manner.

The Employer, for the orderly, efficient and profitable operation of its business, reserves and retains solely and exclusively its right to plan, control, manage and direct its business, operations, personnel and property except as expressly limited by specific provisions of this Agreement.

13. SENIORITY

Seniority is the period starting from the date on which the employee is last hired by the Employer. Any employee shall cease to have seniority and employee status and shall be removed from the seniority list and payroll if the employee:

- a. Resigns or quits.
- b. Is discharged and is not subsequently reinstated by an arbitrator.
- c. Is laid off for a period of twenty four (24) months or more.
- d. Does not return to work within five (5) days after being recalled by telegram or registered or certified mail sent to his last known address or fails or refuses to make acceptable arrangements with the Employer for his return work.
- e. Overstays a leave of absence, vacation, or other period of authorized time off.

The employer will furnish the Union with plan work and departmental lists upon request from the Union at reasonable intervals.

Layoff and recall shall be in accord with the appropriate company seniority list, provided, however, that the employees have the skills, ability and qualifications to perform the work.

14. LEAVES OF ABSENCE

The Employer will make leaves of absence available to employees in accordance with the terms of this Article and pursuant to the Employer's leave practices. In no event shall an employee's leave rights be less than those provided by applicable federal, state or local law.

Family and Medical Leaves

1. Leaves of absence due to an employee's serious illness or injury (work or non-work related) or pregnancy, shall be granted by the Employer upon completion of the Family and Medical Leave request form and presentation of the certificate of a doctor which states the employee is prevented from performing the essential duties of his/her position. Family and medical leaves of absence shall not exceed twelve (12) weeks, but medical leaves may be extended under the extended medical leave policy.

2. An employee who requests such a leave shall, at the time of such request, but no later than fifteen (15) calendar days from the time of such request, submit a medical statement from his/her doctor in accordance with the leave form.

3. If an employee fails to file a medical certificate in a timely manner, or if the employee fails to return to work on the date designated by his doctor or has failed to file for an extension, such employee may be considered to have voluntarily quit.

4. If an employee has worked more than twelve hundred fifty (1,250) hours in the prior year and have more than one (1) year of service and returns to work from an authorized family and/or medical leave within twelve (12) weeks, the employee will be returned to the equivalent job classification with the same employee benefits as had existed at the time the leave was requested. (Subject to any changes uniformly adopted for non-disabled employees during the period of the leave.) In addition, such employee will continue to be covered by the applicable health and life insurance to the extent covered at the time of leave, up to a maximum of twelve (12) weeks within a twelve (12)-month period. See the request for a family and medical leave form for complete details.

Probationary employees who require medical leaves in excess of thirty (30) consecutive days shall be administratively removed from the payroll. If and when they are able to return to work, they will be considered for reemployment to available positions for which they are qualified.

Extended Medical Leave

1. Leave of absence due to illness or injury (work or non-work related) shall be granted by the Employer upon application in writing and presentation of certificate of a doctor which states that the employee is prevented from performing duties. Such leaves of absence shall not exceed three (3) months and shall begin following completion of the twelve (12)-week leave under the Family and Medical Leave Act.

2. An employee who requests an extended leave of absence shall, at the time of such request, submit a medical statement from his/her doctor stating the medical reason(s) for the requested leave, the date on which the leave would begin and the date, if known, on which he/she would be able to return to work.

3. If the date on which the employee is to return has not been provided to the Employer at the time of request for leave, the employee shall have the obligation to request, in writing, an extension of such leave thirty (30) calendar days following the start of the leave. The request for such extension shall include a statement from the employee's doctor attesting to the necessity for such extension, together with the date, if known, when the employee will be able to return to work. For each succeeding thirty (30) calendar day period, the employee shall have the same obligation to request, in writing, additional extensions of the leave of absence. An employee who returns to work within the first three (3) months of an extended leave shall be returned to his/her same classification held at the time the leave began.

4. If an employee fails to file for an extension of the leave of absence, or if an employee fails to return to work on the date designated by his doctor or the maximum time allowed, such employee may be considered to have voluntarily quit.

Military Family Leave Entitlement

Eligible employees with an immediate family member (spouse, child or parent) who is a member of the armed forces who is on a covered active duty (or who has been notified of an impending call or order to a covered active duty) may use their twelve (12) week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include preparing for short notice deployments, attending certain military events, arranging for alternative child care, addressing financial and legal arrangements, attending counseling, rest and recuperation, and attending post deployment events and activities.

The FMLA also permits up to twenty-six (26) weeks of leave, in a single twelve (12) month period, for an eligible employee to care for an immediate family member (spouse, child or parent) or next of kin (nearest blood relative) who is a covered service member. Under this policy, a "covered service member" is a member of the armed forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise on outpatient status, or is on the temporary disability retired list, for a serious injury or illness, or a veteran who is undergoing medical treatment, recuperation or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy. During the twelve (12) month period, the employee shall be entitled to a combined total of twenty-six (26) work weeks of leave for any qualifying reasons, but in no instance is the employee entitled to more than twelve (12) weeks of FMLA leave for reasons unrelated to caring for an immediate family member or next of kin who suffered an injury or illness while on active military duty.

5. Additional Unpaid Leave

An employee who wishes to apply for additional unpaid leave should consult the Employer's Human Resources Department.

15. ABSENCE OF UNION REPRESENTATIVES

Upon reasonable notice in advance to the Employer, Union representatives shall be given reasonable and necessary time off to attend to Union business.

16. VISITATION

A duly authorized representative of the Union may be allowed to enter the plant during working hours.

17. DISCHARGE OR DISCIPLINE

In the event the Union and the affected employee challenge the discharge or discipline, the matter shall be disposed of in accordance with the grievance and arbitration provisions of the Agreement.

18. GRIEVANCE AND ARBITRATION

Grievances as to the meaning, interpretation or application of the provisions of this Agreement shall be settled in the following manner:

- a. If an employee believes he has a grievance, the aggrieved employee and/or his shop steward may attempt to adjust the same with the employee's immediate supervisor within five (5) working days of the occurrence of the matter complained of, and if the grievance is not adjusted by such discussion, or if the employee does not desire such discussion, the grievance must be reduced to writing, signed and dated by the aggrieved employee and/or the steward, and presented to the immediate supervisor within five (5) working days. The immediate supervisor will supply the steward with a written answer within an additional five (5) working days. If the answer is satisfactory, the steward will sign off and date all copies of the grievance including satisfactory settlement. If the answer is unsatisfactory, the steward will so indicate on the grievance and return it to the immediate supervisor.
- b. If the grievance is not resolved at the prior step, the Chief Steward and General Manager or designee within an additional five (5) working days. If it is necessary to facilitate grievance handling, a Union representative and the steward, or both, may also be present for all or part of the discussion. The Employer will provide the Chief Steward with a written answer within an additional five (5) working days.
- c. If the grievance is not resolved, then it may be referred to arbitration within an additional ten (10) working days. If the parties cannot agree upon an arbitrator then the party seeking arbitration shall serve noticing upon the other party, setting forth its grievance and shall file a copy of said notice with the American Arbitration Association. An arbitrator who is a member of the National Academy of Arbitrators shall be selected in accordance with the said Association's Voluntary Labor Arbitration Rules then in effect, and the parties as well as the aggrieved employee shall be bound by his award. Should either party willfully or deliberately default in appearing before the arbitrator after due notice, then in such event the arbitrator may proceed to hear the case and render an award which shall be final and binding.
- d. The expenses and costs of the arbitration shall be shared equally between the parties, but witnesses' costs shall be borne by the party submitting the evidence. The arbitrator shall not hear more than one grievance unless the parties otherwise agree, in writing, that he may do so.
- e. At either party's request, a stenographic record or recording of the arbitration hearing may be made, the cost thereof to be borne by the party making the request, except that the other party shall bear the cost of a copy of the transcript or copy of such other record of the proceedings which it requests.
- f. In no event, shall any arbitrator have any power or authority to alter, modify, amend, add, or subtract from any of the terms or provisions of this Agreement.

19. NO STRIKE, NO LOCKOUT

- a. The Union agrees for itself and its officers, agents and representatives, as well for the employees covered by this Agreement, that it will not call, threaten or sanction any strike

during the term of this Agreement. By "strike" is meant a sit-down, sit-in, slow-down, picketing, boycott, work stoppage, or any interference with or disruption of the Employer's operations or business.

b. In the event of an unauthorized strike the Union will take all positive action and steps to instruct the employees to refrain and cease and desist from such strike.

c. The Employer agrees that, during the term of this Agreement, it will not engage in any lockout of the employees covered thereby.

20. VACATIONS

Employees hired after January 1, 2009 and before January 1, 2010 and are on the payroll as of the date of ratification, shall be entitled to two (2) weeks' vacation in the calendar year January 1, 2012 and each calendar year thereafter. Employees hired after January 1, 2010 shall be entitled to a pro rata share of the vacation benefit based on the rate of one (1) week's vacation which he will receive January 1st after his date of hire. Thereafter, after completion of one (1) year of employment, the employee will earn two (2) weeks' vacation to be taken the next calendar year. Employees hired between January 1, 2010 and January 1, 2011, who remain employed as of the date of ratification, shall be paid for the pro rata vacation benefit in lieu of time off.

a. Vacation pay is paid at the rate of pay in effect at the start of the employee's vacation or at the time an advance payment is requested.

b. Vacation Days shall be taken during the calendar year following the calendar year in which they are earned. Any vacation time that is not taken during the calendar year cannot be accumulated and will not be carried over to the following year unless the vacation was not taken at the request of the Employer.

c. The vacation period will be from January 1 to December 31, subject to approval and scheduling by the Employer.

d. Subject to prior approval and scheduling by the Employer and the other terms of this Article 20 and the Employer's vacation scheduling policies and procedures, vacation may be scheduled and used in units of not less than one day. However, employees are encouraged to schedule and take vacation days in minimum increments of one week.

e. Unless applicable law provides otherwise and except as provided elsewhere in this Article 20, employees who resign with at least two (2) weeks advance notice to the Employer, and employees who are discharged for other than just cause will receive pro-rated vacation pay for the unused vacation for the portion of the year worked by the employee during the calendar year in which the employment terminates.

(f) The Company retains the right to determine the maximum number of employees that may be off during a work week based on production requirements.

21. DEATH IN FAMILY

In the event of a death in the immediate family of an employee of which the Employer is notified within two (2) weeks of the date of death, the Employer shall pay the employee for working time lost as the result of such death, but the period of time during which pay may be claimed shall not exceed three (3) successive days, exclusive of days of rest. The immediate family shall mean only parents, spouse, children, brothers and sisters of employee.

22. HOLIDAYS

a. Eligible full-time employees hired after July 18, 2007, but prior to September 1, 2011, who have completed their probationary period, or those hired after September 1, 2011 who have completed their probationary period, will be paid for their normal straight time rate of pay for the following holidays not worked:

President's Day
Memorial Day
Independence Day/July 4th
Labor Day
Thanksgiving Day
Christmas Day
New Year's Day

Effective January 16, 2012, Martin Luther King's day shall be considered a holiday under this agreement.

In order to receive holiday pay on a holiday not worked, the employee must have worked the scheduled work days before and after the holiday.

23. SICK LEAVE

a. Full time employees who have completed one (1) year of service will be entitled to receive a maximum of up to two (2) days sick leave without loss of straight-time pay in each calendar year, if the following requirements are met:

- i. The employee must immediately notify the Employer of the nature of his illness and his expected return to work.
 - ii. The employee must have a genuine illness which prevents him from properly performing work for the Employer.
- b. Sick leave shall not carry over or be cumulative in any succeeding year or years.
- c. Pro-rata payment in lieu of unused sick leave will be made to an employee at the end of the calendar year.
- d. Sick leave benefits shall not be applicable if the employee is receiving another benefit, such as holiday or vacation, or if the employee is not on the active payroll, such as leave of absence or layoff.

24. MEDICAL INSURANCE

Effective September 1, 2011, the Employer shall contribute to the Local 584 Health and Welfare Fund for full time bargaining unit employees who have completed their probationary period and were hired after July 18, 2007, but before September 1, 2011, with single coverage under the GHI – EPO (in-network only) with vision and dental coverage. The Company will contribute \$2.50 per hour effective September 1, 2011. Employees hired after September 1, 2011 shall be covered for such health insurance after one (1) year of employment.

25. PENSION

The Employer shall provide full-time bargaining unit employees who have completed their probationary period and were hired after July 18, 2007, but before September 1, 2011, with a pension provided by the Local 584 Pension Fund by contributing at the rates provided under Exhibit A. Full-time employees hired on or after September 1, 2011 shall not be covered under Local 584's Pension Plan. Such employees will be eligible for benefits under a defined contribution plan. Contributions to the Plan shall be as follows:

9/1/11 – \$.57 per hour
9/1/12 – \$.62 per hour
9/1/13 – \$.67 per hour
9/1/14 – \$.72 per hour

In addition, the Company will pay \$.03 per hour for administrative costs for the Plan.

26. CDL LICENSE

Effective September 1, 2011, the Company will reimburse employees with three (3) years of service up to a maximum of \$1,500.00 provided the employee presents proof of payment for a certified CDL training course and secures a CDL license within six (6) months of the completion of the course.

27. PLANT MOVING

This Agreement shall cover and apply to the Employer in the event it moves its present operations within a one hundred (100) mile radius of its Jamaica, New York facility during the term of this Agreement.

28. SUBSTANCE ABUSE

a. The Employer and the Union recognize that the Employer and its employees are subject to the requirements of the Drug Free Work Place Act and that it is the Employer's policy to provide and maintain a safe, drug and alcohol free work environment. The parties further recognize that the abuse of alcohol and the use of illegal drugs and controlled substances, whether on the job or off the job, can adversely affect an employee's job performance and jeopardize the safety of other employees, the public and the Employer's property and equipment. It is, therefore, agreed that the Employer shall take disciplinary action, in accordance with the terms of this Article and the Employer's policies and practices relating to the use and possession of drugs, alcohol and other controlled substances against employees who use or are under the influence of

alcohol during working hours or on Employer property or who unlawfully use, distribute or possess narcotic drugs or controlled substances during or outside working hours on or off of the Employer's property.

b. Any employee who is under the influence of alcohol, narcotic drugs or controlled substances during working hours or on the Employer's property, or who engages in the use of alcohol or the illegal use, sale or possession of narcotic drugs, or controlled substances, during working hours or on the Employer's property shall be subject to discipline up to and including discharge in accordance with the policies and practices set forth from time to time in the Employer's Employee Handbook and as administered by the Employer's Human Resources Department. Any illegal substances will be turned over to the appropriate law enforcement agency and may result in criminal prosecution.

29. EXISTING EMPLOYEES

Employees who are members of Local 584 on the Employer's payroll prior to July 18, 2007 ("Existing Employees") shall, except as agreed to by the Union and Elmhurst Dairy as provided in this agreement, continue their employment under the terms and conditions provided for by the collective bargaining agreement between the Union and MILA in effect September 1, 2011 to August 31, 2015.

30. SAVINGS AND SEPARABILITY

If any Article or Section of this Agreement should be held invalid by operation of law or by any tribunal or court of competent jurisdiction, or if compliance with, or enforcement of any Article or Section should be restrained by such tribunal or court, then the remainder of this Agreement and the application of such Article(s) or Section(s) to persons or circumstances other than those to which it has been held invalid or as to which compliance with or enforcement of has been restrained shall not be affected thereby, and shall continue in full force and effect during the term of this Agreement.

31. LAY OFFS

Effective September 23, 2011, any present member of the Union who is laid off by an employer with employees under the jurisdiction of the Union and hired by the Company shall be subject to a thirty (30) day probation period, and the starting wage shall be the contract rate appropriate to the employee's seniority and the classification into which the employee is being hired by the Company.

32. TERMINATION AND RENEWAL

This Agreement shall remain effective and binding upon the parties and their successors until August 31, 2015. If either of the parties shall desire to terminate or to make any changes, modifications or additions in this Agreement at the expiration thereof, it shall notify the other party of such desire in writing at least sixty (60) days prior to the date of the expiration of the Agreement. In the absence of such timely notification, this Agreement shall be automatically renewed and extended for an additional period of one (1) year under the same terms and conditions. Provided that either party may, upon sixty (60) days notice to the other party, reopen this Agreement effective September 1, 2015, with respect to the terms and conditions of

employment of the Existing Employees as defined in this Agreement. Notification under this Paragraph shall be made by Certified Mail, Return Receipt Requested, addressed to the President of the Union at 73 Hudson Street, New York, NY 10013 and to the Vice President and General Manager at 155-25 Styler Road, Jamaica NY 11433. In the event the parties fail to reach an agreement the Union shall have the right to strike and the Employer shall have the right to lockout its employees.

33. COMPLETE AGREEMENT

This Agreement constitutes the sole and complete agreement between the parties and embodies all the terms and conditions governing bargaining unit employees.

The parties acknowledge that they have had the opportunity to present and discuss proposals on any subject for collective bargaining and that each party for the life of this Agreement voluntarily waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter not specifically referred to or covered in this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands this 30 day of OCT, ²⁰¹¹ 2011.

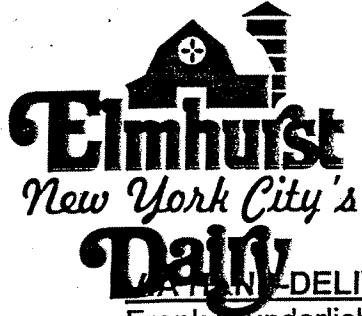
MILK WAGON DRIVERS AND DAIRY
EMPLOYEES, LOCAL 584,
INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

By: W. J. Whelan
WILLIAM J. WHELAN
PRESIDENT

ELMHURST DAIRY, INC.

By: J. V. D
JAY VALENTINE
V.P. & GENERAL MANAGER

EXHIBIT J



August 20, 2012

Frank Wunderlich, President

Local 584

73 Hudson Street, Second Floor
New York, New York 10013-2870

Re: Elmhurst Dairy

Dear Mr. Wunderlich:

Elmhurst Dairy has up until the present survived despite adverse economics and other hostilities that have caused *every other milk plant in the five Boroughs of New York City and Nassau, Suffolk and Westchester Counties to shut down.*

Instead of attempting to create an industry environment in which Elmhurst and at least six or seven other milk plants could have flourished and in which the livelihoods of Local 584's members would have been protected, Local 584's long-time President, Willie Whelan consistently acted and failed to act in ways that made it impossible for plants to continue in business. Now as a result our market, the largest fluid milk market in the world, has only one milk plant. Previously ninety-five percent of all milk sold in this market was processed and packaged by local milk plants. Now only twenty percent of all milk used by New Yorkers is processed and packaged locally - all of which by a single milk plant Elmhurst.

When Willie Whelan came to power in 1978 there were approximately four thousand union dairy workers in the New York City/Long Island/Westchester industry and now we are down to the hundreds. Willie Whelan caused the closure of one dairy plant after another. In fact, on numerous occasions Willie openly bragged that he had *shut down multiple milk and yogurt plants and repeatedly threatened that he would put Elmhurst out of business.* Willie Whelan's actions and inactions were up through the time of his retirement consistent with those boasts and threats, and the dire effects on the local industry were so blatant that former officials of Local 584 openly stated to their brothers that Willie Whelan "destroyed the New York milk industry".

For many years the Local 584 labor agreements contained a provision requiring that all milk distributed in the New York Metropolitan area by parties to the agreements be packaged and processed exclusively by milk plants with workforces comprised of Local 584 members. This provision was known as Section 8e of the agreements. The drafters of Section 8e, going back to the time of the original labor contracts in the industry, recognized the reality that in the absence of the protections afforded by this provision substantial amounts of milk production volume would shift from Local 584

Elmhurst Dairy, Inc.

155-25 Styler Road, Jamaica, NY 11433

Office Tel. 718.526.3442 Office Fax. 718.291.0919

www.elmhurstdairy.com

Frank Wunderlich, President

August 20, 2012

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plants to non-unionized plants and/or plants that were not signatories to the Local 584 labor agreements due to the ability of such plants to supply milk at much lower costs.

All parties understood that such shifts in production volume would only serve to grow and intensify the effects of the competitive advantage held by non-Local 584 plants and would ultimately result in the closure of *all* Local 584 plants and the movement of *all* production volume to other plants outside of NYC/LI/West. The recognition of this fact was in the first sentence of Section 8e which provided that the provision was enacted "*to protect the job opportunities . . . of all employees covered by the Milk Industry Collective Bargaining Agreement . . .*"

Amazingly, despite the vital importance of Section 8e for the survival of the Local 584 plants and the Union jobs at those plants, Local 584 under Whelan's direction, stopped enforcing the provision against violations by its milk dealer members who began to use non-Local 584 plants for the supply of milk. This lack of enforcement of Section 8e profoundly harmed Elmhurst's business. For example, between 2005 and 2011 the total retail store volume of milk processed by Elmhurst for Tuscan/Beyer along with the margin for such processing dropped by approximately thirty-three percent as a result of Local 584, over Elmhurst's vigorous objections and pleas for assistance, allowing Tuscan/Beyer to move substantial blocks of production volume from Elmhurst's plant to Tuscan's own non-Local 584 plants.

In 2011, the total non-New York City Schools related volume of milk processed by Elmhurst for Bartlett dropped overnight by approximately fifty percent when Local 584, again over Elmhurst's vigorous objections and pleas for assistance, which included a rally by Elmhurst's employees on the steps of City Hall, allowed Bartlett to move the Starbucks business from Elmhurst's plant to a non-Local 584 plant owned by Dean Foods. Tellingly, even after officials of Local 584 demonstrated with Elmhurst at that rally, Willie Whelan turned around the very next day and went to New Jersey to arrange for the Starbucks volume to be moved to the Dean plant. It is our understanding that Willie took such action over the objections of other Local 584 officers. Due to the comparatively high profitability of the Starbucks business, this loss of production volume caused a reduction in the total margin generated by Elmhurst from its milk processing for Bartlett in excess of fifty percent. This dramatic margin reduction caused Elmhurst to experience extreme financial pressure.

In the fall 2011, as Elmhurst continued to implore Local 584 to once again begin enforcing Section 8e so that Elmhurst could at least have a fighting chance to survive, Local 584 proceeded to formally remove Section 8e from the Milk Industry Labor Association (MILA) labor agreement in what can only be characterized as a *fulfilling of Whelan's promise "to put Elmhurst out of business" and an affirmation of Whelan's lack of concern for the livelihoods of the Local 584 members working at Elmhurst, and, in particular, Elmhurst's Tier 1 employees.*

Frank Wunderlich, President

August 20, 2012

Page 3

At the same time, in a move that made Elmhurst's plight even far worse, Local 584 added a provision to the MILA labor agreement under which its milk dealer members are *allowed to hire and use Tier 3 employees in their depots*. On numerous occasions during its thirteen month negotiation with Local 584 in relation to the current Elmhurst labor agreement, Elmhurst, which to this day continues to employ the largest percentage of Tier 1 plant employees in the industry, begged the Union to only permit the use of Tier 3 employees at Elmhurst's plant so Elmhurst could have a chance to survive. Local 584's refusal to honor this critically important request in combination with the elimination of Section 8e has already resulted in the creation of several new dealer depots where *milk from non-Local 584 plants* is loaded by *Tier 3 employees* at an average total hourly labor cost of approximately \$14.00, which is one-third of Elmhurst's Tier 1 hourly labor cost of approximately \$42.00.

The circumstances described above in combination with other activities of Local 584 not detailed here are resulting in the extinction of Elmhurst including all Tier 1 jobs at its plant and this outcome can only be averted if appropriate actions are immediately taken. Without question, in the absence of dramatic action Elmhurst will close its doors and its Tier 1 employees will be permanently locked out of the industry given that their wage and benefit costs are three times the wage and benefit costs of the Tier 3 employees that Local 584 has provided its milk dealers the right to hire and use in depots that get milk from out-of-state plants. As a consequence, the lives and families of all the displaced Tier 1 employees will be irreversibly harmed.

The looming Elmhurst demise is evidenced by the fact that its sales volume has declined every year since 2006 and is projected to decline again for 2012 as reflected in the following chart:

Total Elmhurst Sales Volume By Calendar Year

2006	-	7,186,000 cans
2007	-	6,909,364 cans
2008	-	6,804,312 cans
2009	-	6,296,793 cans
2010	-	6,182,342 cans
2011	-	5,862,181 cans
2012	-	5,627,406 cans [est.]

Most relevant and alarming is the fact that, due to its deteriorated financial condition, Elmhurst, which has close to \$32,000,000 in bank debt alone, breached one of the four monthly financial covenants contained in the loan agreements existing between the company and its banks for the month of July. Further, Elmhurst projects that it will breach two of those covenants for August and three of them for September. *The deadline for Elmhurst to report July's breach to the banks and present the banks with an action plan for curing the breach and righting its financial condition is September 15. If Elmhurst is unable to present and successfully execute such a plan in a timely*

Frank Wunderlich, President
August 20, 2012
Page 4

manner, the consequences for the company will become worse and may result in the banks calling the loans, in which case Elmhurst will be forced to permanently shut down.

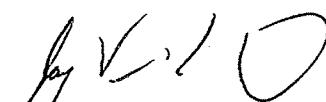
You should know that Elmhurst has been owned and operated by the Schwartz family for close to one hundred years. The company was founded by Max Schwartz and his brother Arthur, both of whom were later joined by Percy Krout. We believe that despite the current crisis, if Local 584 will, beginning at this critical juncture, make a clean break with the detrimental practices established and followed under Willie Whelan and, as other unions throughout the United States have done, choose to become a true partner of its members' employers, Elmhurst can survive for generations and in the process employ greatly increasing numbers of plant workers and become the base of operations for many more Local 584 delivery men. It has always been and remains the great desire of the current ownership to keep the business alive if possible.

However, at this time the Schwartz family feels that it has done everything that it could possibly do and that the moment has come for a new day in which the Union aids Elmhurst, just as unions throughout the nation are doing for their members' employers. We believe that if this does not take place and Elmhurst does close its doors, the milk volume on the dealer routes now serviced from Elmhurst's premises will quickly dissipate onto non-union routes and in order to stay alive the Local 584 dealers will be forced to start-up and operate non-union distribution companies as has already happened throughout the market.

Elmhurst is presently reviewing all available options in relation to a plan for curing/averting the covenant breaches referred to above and immediately righting its financial condition and is fully prepared to take all actions necessary. We are willing and eager to consider all proposals and ideas that Local 584 may have for achieving these ends. For that purpose, we request that you meet with us at a mutually convenient time on August 24 or 27. We are hopeful that for everyone's benefit Local 584 understands the urgency of the circumstances facing Elmhurst and that it will treat this critical request in a good faith manner and with the upmost speed.

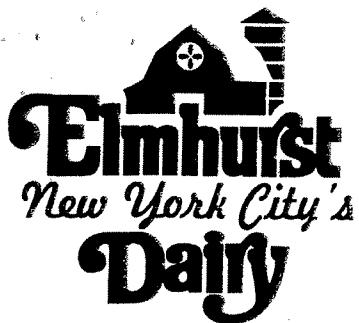
At your earliest convenience, please advise me which of the two dates identified above will work for Local 584 for a meeting. In the interim, please do not hesitate to contact me if you have any questions.

Very truly yours,



Jay Valentine
Vice-President &
General Manager

EXHIBIT K



[Date]

[Name]
[Address]

Re: Separation from Employment and Release

Dear Mr. _____:

This Buy-Out Agreement ("Agreement") sets forth the agreement between you, on your own behalf and on behalf of your heirs, executors, agents and assigns, and ELMHURST DAIRY, INC., on its own behalf and on behalf of its parent, subsidiary and affiliated corporations, and their respective successors, assigns, representatives, agents, shareholders, officers, directors, as well as its and their present and former employees (hereinafter collectively referred to as "the COMPANY").

Your employment with the COMPANY will terminate effective _____. In exchange for your agreement to the terms of this Agreement:

- 1) You will receive a total of Twenty-Five Thousand Dollars (\$25,000.00) which shall be paid in seventy-eight (78) consecutive weekly installment payments as follows: a) seventy-seven (77) payments of Three Hundred Twenty Dollars and Fifty One Cents (\$320.51); and b) immediately following the completion of the seventy-seven (77) payments, one payment of Three Hundred Twenty Dollars and Seventy Three Cents (\$320.73). These seventy-eight (78) consecutive weekly installment payments shall subject to the terms of this Agreement begin upon the first week following the termination of your employment. You shall receive these payments irrespective of whether you obtain other employment at any time prior to the completion of the payments.
- 2) In the event that you have not obtained other employment with an employer who is a signatory to a collective bargaining agreement with Local 584 prior to the completion of the weekly installment payments set by numbered Section 1, above, you will receive up to an additional Twenty-Five Thousand Dollars (\$25,000.00) to be paid in up to an additional seventy-eight (78) consecutive weekly installment payments as follows: a) seventy-seven (77) payments of Three Hundred Twenty Dollars and Fifty One Cents (\$320.51); and b) immediately following completion of the seventy-seven (77) payments, one payment of Three Hundred Twenty Dollars and Seventy Three Cents (\$320.73). These payments shall begin upon the first week immediately following the completion of the weekly installment payments set by numbered Section 1, above; provided, however, that any payments made under this numbered Section 2 shall immediately cease in the event that you become employed with an

employer who is a signatory to a collective bargaining agreement with Local 584 at any time while such payments are ongoing. For clarity, if you obtain employment with an employer who is a signatory to a collective bargaining agreement with Local 584 at any time prior to the completion of the weekly installment payments set by numbered Section 1, above, and irrespective of how long you hold such employment, you will not be entitled to any of the weekly installment payments provided for under this numbered Section 2.

- 3) All payments provided to you under the terms of this Agreement will be made via check sent to your home address as identified above. You shall send me a letter(s) notifying me of any change(s) in your home address within seven (7) days of the change(s). Likewise, if you obtain other employment with an employer who is a signatory to a collective bargaining agreement with Local 584 while receiving weekly installment payments under this Agreement you will send me a letter notifying me of your new job within seven days of your accepting such employment.
- 4) The COMPANY will not contest your right to collect unemployment compensation benefits following the termination of your employment. Currently, the maximum unemployment benefits provided under law are Four Hundred Five Dollars (\$405.00) per week.
- 5) Provided you elect to continue coverage of health insurance under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") the COMPANY will pay the COBRA premiums for a period of six (6) consecutive months commencing upon the date of the termination of your employment; provided, however, that if you obtain other health insurance coverage prior to the completion of such six (6) months the COMPANY's obligation to pay such COBRA premiums under this Agreement will immediately cease.

You acknowledge and agree that if you do not sign this Agreement, you will not be entitled to the payments and benefits outlined above, and that such payments and benefits will only be provided to you if you sign this Agreement and do not revoke this Agreement as provided for below. You also understand that the payments will be made after the expiration of the seven-day revocation period set forth in the final paragraph of this Agreement.

You agree to waive any and all claims against the COMPANY, and release and discharge the COMPANY from liability for any and all claims or rights to damages that you had, have or may have against the COMPANY as of the date of your execution of this Agreement, whether known or unknown to you, including but not limited to: any claims arising under or on account of any federal, state or local law, rule or ordinance, tort, employment contract (express or implied), collective bargaining agreement, public policy, or any other obligation including any claims arising under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, as amended by the Older Workers' Benefit Protection Act, the Civil Rights Act of 1866, the Civil Rights Act of 1991, the Americans With Disabilities Act, the Family and Medical Leave Act, the National Labor Relations Act as amended, the Labor Management Relations Act, New York's Human Rights Law, any other labor law, employee relations, and/or fair employment practice statute, rule or ordinance,

all claims for wages, monetary or equitable relief, vacation, other employee fringe benefits, benefit plans, medical plans, 401(k) plan or attorney's fees, and any unfair labor practice, grievance, administrative complaint (individually or collectively "Claims"). The COMPANY denies that it has violated any of its obligations to you.

Nothing in this Agreement prohibits you from: 1) filing claims for unemployment insurance; 2) providing assistance in an investigation or proceeding conducted by the United States Equal Employment Opportunity Commission ("EEOC"); or 3) filing a charge or complaint with any federal agency such as the EEOC; provided, however, that you agree that you waive any and all rights to monetary damages you may have in connection with any EEOC or other federal agency charge.

You agree that you will not apply for employment or otherwise seek to be hired, re-hired, employed or reinstated by the COMPANY and that you waive any right to reinstatement or further employment with the COMPANY. By this Agreement, you intend to remove yourself from consideration for future employment with the COMPANY. Nothing in the immediately preceding sentence shall be construed to require your employment to be terminated in the event you become employed by a company which is later acquired by the COMPANY.

Your signature below indicates that you^{are} entering into this Agreement fully, knowingly and voluntarily without duress or coercion, and with a full understanding of its terms.

This Agreement sets forth the entire agreement between you and the COMPANY and supersedes any and all prior oral and/or written agreements. This Agreement may not be changed or altered, except by a writing, signed by an authorized representative of the COMPANY.

You are advised to consult with a lawyer concerning this Agreement. You acknowledge that you have been provided at least forty-five (45) days from the date you receive this Agreement within which to consider its terms and consult with an attorney of your choosing. Should you sign the Agreement prior to completion of the forty-five (45) day period, you agree you voluntarily did so in order to more expeditiously receive the payments and benefits provided for by this Agreement. You acknowledge and agree that you have been provided the information contained in Exhibit 1 annexed hereto, in compliance with the Older Workers Benefit Protection Act. You acknowledge and understand that this Agreement shall not become effective or enforceable until seven days after you sign it. During the first seven days after you sign this Agreement you shall have the right to revoke your acceptance of this Agreement by notifying me of such revocation in writing.

Very truly yours,

Jay Valentine, VP & General Manager

AGREED AND ACCEPTED:

BY: _____

Signature

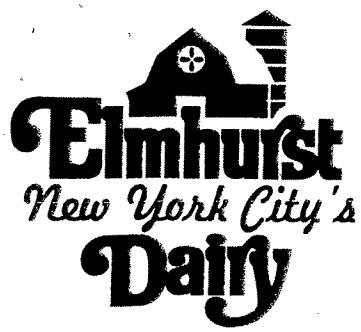


EXHIBIT 1

Plan Purpose

The separation program is being offered for economic reasons to reduce the average hourly cost of operations. Plant employees hired before July 18, 2007 may elect to participate in the program. Such election must be made by October 19, 2012, unless the program is extended.

#

ALL BARGAINING UNIT MEMBERS

<u>Age as of 9/1/12</u>	<u>Postion</u>
71	MECHANIC
62	UTILITY
61	UTILITY
54	UTILITY
51	UTILITY
58	UTILITY
48	UTILITY
45	UTILITY
43	UTILITY
58	UTILITY
55	UTILITY
52	MECHANIC
57	UTILITY
39	MECHANIC
47	UTILITY
42	UTILITY
44	UTILITY
59	UTILITY
47	UTILITY
49	PSTZ
38	DRIVER
58	MECHANIC
45	UTILITY
45	MECHANIC
40	MECHANIC
59	MECHANIC
39	UTILITY
49	UTILITY
51	PSTZ
45	UTILITY
48	MECHANIC
56	UTILITY
41	UTILITY
56	MECHANIC
51	UTILITY
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69	MECHANIC
42	UTILITY
64	MECHANIC
49	PSTZ
47	DRIVER
51	UTILITY

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36	UTILITY
29	SALES
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41	DRIVER
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43	UTILITY
24	UTILITY
54	DRIVER
43	DRIVER
36	UTILITY
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24	UTILITY
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22	UTILITY
21	UTILITY
20	UTILITY

6

All Plant Employees Hired Prior To July 18, 2007

<u>Age as of 9/1/12</u>	<u>Postion</u>
71	MECHANIC
62	UTILITY
61	UTILITY
54	UTILITY
51	UTILITY
58	UTILITY
48	UTILITY
45	UTILITY
43	UTILITY
58	UTILITY
55	UTILITY
52	MECHANIC
57	UTILITY
39	MECHANIC
47	UTILITY
42	UTILITY
44	UTILITY
59	UTILITY
47	UTILITY
49	PSTZ
58	MECHANIC
45	UTILITY
45	MECHANIC
40	MECHANIC
59	MECHANIC
39	UTILITY
49	UTILITY
51	PSTZ
45	UTILITY
48	MECHANIC
56	UTILITY
41	UTILITY
56	MECHANIC
51	UTILITY
45	MECHANIC
55	MECHANIC
35	UTILITY
69	MECHANIC
42	UTILITY
64	MECHANIC
49	PSTZ
51	UTILITY
34	UTILITY
36	UTILITY

29	SALES
54	UTILITY
55	UTILITY
58	UTILITY
32	UTILITY
48	UTILITY
43	UTILITY
34	UTILITY
54	UTILITY
48	UTILITY
35	UTILITY
52	UTILITY
45	UTILITY
47	UTILITY
46	UTILITY
43	UTILITY
50	UTILITY
52	UTILITY
54	UTILITY
46	UTILITY
36	UTILITY
54	MECHANIC
49	UTILITY
46	UTILITY
52	UTILITY
44	UTILITY
42	UTILITY
53	UTILITY
49	SALES
39	UTILITY
60	UTILITY
51	UTILITY
43	UTILITY
32	UTILITY
60	PSTZ
45	UTILITY

EXHIBIT L

			Insurance options	Monthly COBRA rate	09/17-9/30 pro-rated
125-58-4113 ✓	LUIS ACOSTA	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
126-92-7760 ✓	ABDUL RAUF ADAM	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
128-78-1269 ✓	SAMUEL ADJEI	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
590-57-8157 ✓	RAYMOND ALLEN	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
057-78-1536 ✓	OWEN ANDREWS	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
091-92-9072 ✓	AXLE BAWIE	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
096-78-3866 ✓	LEON BENJAMIN	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
098-62-0522 ✓	FRED BEVINETTO	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
096-36-1080 ✓	JONATHAN BLUM	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
	MAMOUDOU BOUKARI	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
080-88-4085 ✓	HAMMEY BOUREIMA	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
	CHRISTOPHER BRIMM	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
127-80-6043 ✓	JOSÉ CARTAGENA	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
072-48-0605 ✓	LOUIS CASELLA	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
121-82-2700 ✓	REMY CELESTIN	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
061-62-0880 ✓	NOEL CHADWICK	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
102-50-7932 ✓	MARK CLARK	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
114-46-0357 ✓	EDWIN COLLAZO	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
071-50-5402 ✓	MIGUEL CRUZ	Ind	Aetna+Close Panel ✓	443.41	\$ 206.92
157-96-2346 ✓	EBENEZER ESSIFUL	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
078-74-6756 ✓	RALLIS GIALABOKIS	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
	HARRINGTON GLASGOW	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
063-66-4348 ✓	MARK GRAHAM	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
098-80-6585 ✓	SEYNI KARIDIO	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
114-78-3086 ✓	KISSI KOFI	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
508-41-5541 ✓	SERGIO LOBOS	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
619-09-3914 ✓	ELIJAH MANING	Fam	Aetna+Sele-Dent ✓	1133.06	\$ 528.76
093-88-0084 ✓	JULIO MONTES DEOCA	Ind	Aetna+Close Panel ✓	443.41	\$ 206.92
087-82-9826 ✓	LUIS PAGAN	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
121-54-6587 ✓	ERIC PEPRAH	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
088-76-7315 ✓	KEVIN ROBERTS	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
108-52-0901 ✓	CHESTER RODMAN	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
102-90-2660 ✓	JOSEPH SAUERS	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
133-64-9767 ✓	BARRINGTON SHAND	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
129-84-5518 ✓	DEOVANAND SINGH	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
119-92-3985 ✓	Singh, Davinder	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
069-76-4630 ✓	TEO STEWART	Ind	Aetna+Sele-Dent ✓	421.9	\$ 196.89
102-56-2546 ✓	JOHN TOCCI	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66
131-60-5593 ✓	MANUEL TORRES	Fam	Aetna+ Close Panel ✓	1152.12	\$ 537.66

089-78-6822 ✓	IDRISSA TRAORE	Fam	Aetna+ Close Panel	1152.12	\$ 537.66
094-68-4965 ✓	RUSSELL WEINGRAD	Fam	Aetna+Sele-Dent	1133.06	\$ 528.76
131-84-8740 ✓	KWEI WELBECK	Ind	Aetna+Close Panel	443.41	\$ 206.92
Total Due:					\$ 17,751.95

ELMHURST DAIRY, INC 155-25 STYLER ROAD, JAMAICA, NY 11433

VENDOR:	LOC5WE - LOCAL 584 - WELFARE TRUST FUND				Check Date 09/18/12	048890
OUR REF. NO.	YOUR INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
282168	282168	09/17/12	17,751.95	17,751.95		17,751.95
					Check Total:	17,751.95

EXHIBIT M

LAW OFFICES OF
JOHN T. DRISCOLL, P.C.
300 EAST 42ND STREET - 10TH FLOOR
NEW YORK, NEW YORK 10017
TEL: (212) 599-9000
FAX: (212) 972-9609
EMAIL: DRISCOLL584@AOL.COM

JOHN T. DRISCOLL
MAURA SHERIDAN

OF COUNSEL
JOHN J. CARR
JAMES J. DELANEY

September 18, 2012

Via Federal Express
Robert A. Doren
Bond, Schoeneck & King
Key Center, 40 Fountain Plaza
Suite 600
Buffalo, NY 14202-2200

Dear Mr. Doren:

I am writing on behalf of our client Local 584 I.B.T. concerning Elmhurst's Sunday, September 16, 2012 decision to layoff approximately 42 unionized Utility employees out of seniority with paid COBRA benefits. This action violates the Teamster Elmhurst CBA. The Union has initiated arbitration (copy of the American Arbitration Association arbitration demand enclosed).

I request that 1) Elmhurst consent to an expedited arbitration; and 2) Elmhurst return the laid off employees to employment immediately pending the arbitration award.

PURSUANT TO SECTION 8(A)(5) OF THE NATIONAL LABOR RELATIONS ACT, please immediately provide the following information which is relevant to this arbitration: 1) the seniority list for all utility workers as of September 15, 2012; 2) all other documents which relate to Elmhurst's decision to layoff approximately 42 unionized employees and to provide them with a COBRA benefit. Also, please immediately identify which CBA provisions, if any, support the decision to layoff these employees and the decision to provide COBRA benefits.

PLEASE TAKE NOTICE, that pursuant to CPLR Section 7503(c), unless Elmhurst applies to stay arbitration within twenty (20) days after service of this notice, it shall thereafter be precluded from objecting that a valid agreement was not made or has not been complied with and from asserting in Court the bar of the limitation time.

Given the seriousness of the above issues and their urgency, I request that you respond promptly. Thank you.

Very truly yours,



MEDIATION Please consult the AAA regarding mediation procedures. If you want the AAA to contact the other party and attempt to arrange a mediation, please check this box.

VOLUNTARY LABOR ARBITRATION RULES **DEMAND FOR ARBITRATION**

DATE: SEPTEMBER 18, 2012

D: Name Elmhurst Dairy, Inc.

(of the party upon whom the demand is made)

Address 155-25 Styler Road

City and State Jamaica, New York

ZIP Code 11433

Telephone (718) 526-3442

Fax (718) 291-0919

Name of Representative Robert A. Doren, Esq.

Representative's Address Key Center 40 Fountain Plaza, Suite 600

City and State Buffalo, NY

ZIP Code 14202

Telephone (716) 566-2834

Fax (716) 566-2808

The named claimant, a party to an arbitration agreement contained in a written contract, dated 9/21/11, providing for arbitration under the Voluntary Labor Arbitration Rules, hereby demands arbitration thereunder.

(Attach the arbitration clause or quote it hereunder.)

CHARACTER OF DISPUTE: Employer in violation of the collective bargaining agreement laid off forty two senior Union employees out of seniority order, and provided COBRA benefit to those employees (Section 13(e) of CBA between the parties dated 7/18/07)

AIM OR RELIEF SOUGHT: (amount, if any) Immediate reinstatement of laid off employees with back pay

PLAINTIFF'S LOCALE REQUESTED: New York, New York
(City and State)

You are hereby notified that copies of our arbitration agreement and of this demand are being filed with the American Arbitration Association at its New York City, with the request that it commence the administration of the arbitration. Under the rules, you may file an answering statement after notice from the administrator.

dated _____ Title: Attorney
(may be signed by a representative)

Name of Claimant Local 584, I.B.T.

Address (to be used in connection with this case) 265 West 14th Street

City and State New York, New York ZIP Code 10011

Telephone (212) 929-5486 Fax (212) 929-6702

Name of Representative Driscoll & Delaney

Representative's Address 300 East 42nd Street

City and State New York, New York ZIP Code 10017

Telephone (212) 599-9000 Fax (212) 599-2484

To institute proceedings, please send three copies of this demand with the administrative fee, as provided for in the rules, to the AAA. Send the original demand to the respondent.

EXHIBIT N

BOND SCHOENECK & KING

Key Center | 40 Fountain Plaza, Suite 600 | Buffalo, NY 14202-2200 | bsk.com

ROBERT A. DOREN, ESQ.

Member

rdoren@bsk.com

P: 716.566.2833

F: 716.566.2834

C: 716.870.6480

September 20, 2012

VIA E-MAIL, FAX AND UPS OVERNIGHT

John T. Driscoll, Esq.
John T. Driscoll PC
300 East 42nd Street, 10th floor
New York, NY 10017

Re: *Elmhurst Dairy, Inc. and Local 584 I.B.T.*

Dear Mr. Driscoll:

This is in response to your letter of September 18, 2012 which attaches a Demand for Arbitration filed by Local 584 against Elmhurst Dairy. The Demand for Arbitration appears premature. Both the MILA contract applicable to Elmhurst employees hired prior to July 18, 2007 and the Elmhurst contract applicable to employees hired after July 18, 2007, require the union to file a grievance and proceed in accordance with the grievance procedure. To date, no grievance has been filed nor has the union proceeded in accordance with the collective bargaining agreement provisions.

Therefore, should the union wish to contest the Company's action of laying off 42 utility employees, it may do so by filing a grievance. After it has done so, the parties can meet to discuss the underlying issues and the contract or contracts which are applicable for this dispute. Should the union refuse to proceed in this fashion, withdrawing the current Demand for Arbitration, which is premature, the Company will be forced to move to stay arbitration.

Given the seriousness of the issues, I request that you proceed in accordance with the grievance and arbitration agreement of the applicable collective bargaining agreement.

In addition, pursuant to Section 8(b)(3) of the National Labor Relations Act, please immediately provide the following information which is relevant to this dispute: all documents which relate to the union's contention that the Company violated the employees' rights when it laid off the 42 employees on September 16, 2012. Please identify which collective bargaining contract provisions, if any, would support the union's position.

Very truly yours,

BOND, SCHOENECK & KING, PLLC



Robert A. Doren

RAD/dlo

127355.2

EXHIBIT O



September 25, 2012

1633 Broadway, Floor 10, New York, NY 10019-6708
telephone: 212-484-3266 facsimile: 212-307-4387
internet: <http://www.adr.org/>

John T. Driscoll
John T. Driscoll, P.C.
300 East 42nd Street 10th Floor
New York, NY 10017

Robert A. Doren, Esq.
Bond, Schoeneck & King, LLP
40 Fountain Plaza
Suite 600
Buffalo, NY 14202

Re: 13 300 02098 12
John T. Driscoll, P.C.
and
Bond, Schoeneck & King, LLP

Grievances: Employer in violation of CBA laid off forty two senior Union employees out of seniority order, and provided COBRA benefit to those employees (Section 13(e) of CBA between the parties dated 7/18/07)

Dear Parties:

On September 21, 2012 this office received a Demand for Arbitration filed in accordance with a Collective Bargaining Agreement that contains an arbitration clause providing for administration by the AAA. Please note that this arbitration will be administered under the Association's Labor Arbitration Rules, which are available on our website: <http://www.adr.org>

Pursuant to Section 12 of the Rules, enclosed please find an identical list of names selected from our Panel of Labor Arbitrators. This list is due to the Association by **October 5, 2012**. Please note that if a party does not return the list in the time specified, all names will be deemed acceptable. Please note that if the parties are unable to agree on a mutually acceptable arbitrator from this first list, an additional administrative appointment list will be provided.

For your convenience we have attached a Labor Arbitration Informational Sheet which outlines our policies and procedures.

If you have any questions regarding our services or administration, please feel free to call or email me.

Sincerely,

Priscilla Hernandez

Priscilla Hernandez
Case Manager
212 484 4184
HernandezP@adr.org

Enclosure(s)

Labor Arbitration Information Sheet

This document provides important information regarding AAA's policies and procedures.

Answer to the Demand for Arbitration

Pursuant to Section 8 of the Rules, the Respondent's Answer must be submitted within ten (10) calendar days from the date of this letter, otherwise, we will assume that the claim is denied.

Exchange of Correspondence

The parties must exchange copies of all correspondence during the course of the arbitration except for arbitrator list.

Administrative Appointment List

If the initial list of arbitrators does not result in a mutually acceptable arbitrator, AAA will provide the parties with an Administrative Appointment List consisting of five (5) arbitrators. You may not strike any names from the list. However, you may indicate your order of preference by numbering all names. Also, you may release names from the initial list in an attempt to identify a mutually acceptable arbitrator. Released names must accompany your Administrative Appointment rankings and any match resulting from the release of names will take precedence over the Administrative Appointment.

Timeliness of Filings

Please note that much of the correspondence received from the AAA will contain deadlines. If you need to extend any deadline during the course of these proceedings, please try to obtain the other party's agreement prior to contacting the AAA. Without the consent of the parties, Case Managers only have the authority to grant one seven (7) day extension per deadline, provided that the request is reasonable and necessary. Any additional extensions can only be granted by an AAA Supervisor.

Communication with Arbitrator

It is very important that parties do not engage in any ex parte communications with the arbitrator. To minimize the potential of such communications, all written communication from the parties to the arbitrator will be directed to the AAA for transmittal to the arbitrator.

Labor Arbitrator's Code of Professional Responsibility

This document is made available on our website for review. Advocates can increase their effectiveness in representing clients during labor-management disputes with a greater understanding of the Code and how it applies to the arbitration process and arbitrator responsibilities.

Subpoenas

Copies of correspondence or other information with respect to subpoenas are to be exchanged between the parties unless both parties agree not to exchange subpoena requests. For additional information, please feel free to review the Subpoena Fact Sheet for Labor cases available on our website at www.adr.org

AAA Webfile

Parties are also encouraged to visit our website to learn more about the AAA online services WebFile provides the flexibility to work with your cases at any time even outside normal business hours. Some features of Webfile include: file new Demands, review status of pending cases, rank acceptable arbitrators, review hearing dates, locations and times, view invoices and submit payments. Please feel free to contact the undersigned with any questions regarding our website or Webfile

AAA Administrative Fees

AAA initial administrative fees are nonrefundable. Parties entering settlement negotiations at any time after the AAA has opened its file should take into consideration the nonrefundable fees. AAA initial fees remain due and payable when parties settled or withdraw a matter after the filing of the demand for arbitration or submission. For the parties' convenience, invoices can be paid using any method of payment they chose including the use of a credit card. Please contact your case manager for details on payment by credit card or to discuss alternative methods of payment.

AMERICAN ARBITRATION ASSOCIATION

Re: 13 300 02098 12
John T. Driscoll, P.C.
and
Bond, Schoeneck & King, LLP

Grievances: Employer in violation of CBA laid off forty two senior Union employees out of seniority order, and provided COBRA benefit to those employees (Section 13(e) of CBA between the parties dated 7/18/07)

DATE LIST SUBMITTED: September 25, 2012
CASE MANAGER: Priscilla Hernandez

LIST FOR SELECTION OF ARBITRATOR(S)

After striking the name of any unacceptable arbitrator, please indicate your order of preference by number. We will try to appoint a mutually acceptable arbitrator who can hear your case promptly. Leave as many names as possible.

Melissa H. Biren
Sally Steinberg Brent
Jacquelin F. Drucker
Dana Edward Eischen
Roberta Golick
Joseph A. Harris
Hon. Beverly J. Hodgson
Robert E. Light
Susan T. Mackenzie
Joseph M. Pastore Jr.
David J. Reilly
John E. Sands
Martin F. Scheinman
Jeffrey M. Selchick
Elliott D. Shriftman

Party _____

By _____ Title _____

NOTE: Biographical information is attached. Unless your response is received by {{due date}}, all names submitted may be deemed acceptable.

EXHIBIT P



September 26, 2012

1633 Broadway, Floor 10, New York, NY 10019-6708
telephone: 212-484-3266 facsimile: 212-307-4387
internet: <http://www.adr.org/>

John T. Driscoll
John T. Driscoll, P.C.
300 East 42nd Street 10th Floor
New York, NY 10017

Robert A. Doren, Esq.
Bond, Schoeneck & King, LLP
40 Fountain Plaza
Suite 600
Buffalo, NY 14202

Re: 13 300 02098 12
John T. Driscoll, P.C.
and
Bond, Schoeneck & King, LLP

Grievances: Employer in violation of CBA laid off forty two senior Union employees out of seniority order, and provided COBRA benefit to those employees (Section 13(e) of CBA between the parties dated 7/18/07)

Dear Parties:

This will confirm receipt of advice that the above-captioned matter has been withdrawn and the Association's file is hereby closed.

Please be advised that it is the AAA's policy to retain closed cases for a maximum period of six (6) months after their closing date. Therefore, please take note that the above referenced physical case file will be destroyed six months from the date of this letter. In the normal course of our administration, the AAA may maintain certain documents in our electronic records system. Such electronic records are not routinely destroyed and do not constitute a complete case file.

Also, enclosed please find the Arbitrator's bill for services rendered in this matter. When paying the Arbitrator, checks should be prepared and mailed directly to the Arbitrator, not to the American Arbitration Association. Any unpaid fees still due the Association and the Arbitrator in the above-captioned matter remain fully payable. Your cooperation in this regard is greatly appreciated.

Thank you for choosing the American Arbitration Association.

Sincerely,

Priscilla Hernandez

Priscilla Hernandez
Case Manager
212 484 4184
HernandezP@adr.org

EXHIBIT Q

Teamsters 584

73 Hudson Street
New York, NY 10013
Phone (212) 571-1242
Fax (212) 571-2562

MILK AND ICE CREAM DRIVERS AND ALL
DAIRY AND ICE CREAM EMPLOYEES
NEW YORK, NEW YORK

AFFILIATED WITH
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

FRANK WUNDERLICH
PRESIDENT

THOMAS HELLY
SECRETARY-TREASURER

CHARLIE BRADY
VICE PRESIDENT



September 24, 2012

Mr. Jay Valentine
Elmhurst Dairy, Inc
155-25 Styler Road
Jamaica, NY 11433

Dear Jay,

Be advised hereby that Local 584 I.B.T. hereby grieves the layoff of 42 of the most senior Union Utility Craft employees, without prior notice on Sunday September 16, 2012, and provided paid COBRA coverage to those employees. In further violation of the Collective Bargaining Agreement the company hired new employees without first recalling laid off employees.

The company's action above are violations of the Collective Bargaining Agreement between Local 584 I.B.T. and the Metropolitan Dairy Employees of the City of New York, effective July 1, 2005 (Section 4(b) (c) & (d) pages 2 to 4, and Section 13(e) of the CBA between the Union and Elmhurst Dairy, dated July 18, 2007)

The Union has filed a demand for arbitration with the American arbitration Association and requested that the Company consent to an expedited arbitration process. Discussions we have had since September 16, 2012 leads me to believe that we will not be able to adjust our grievances, and an expedited arbitration is in our mutual best interests.

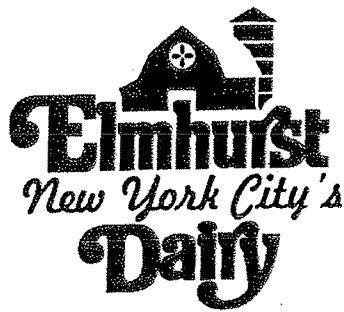
I will direct our representative, John Driscoll Esg, to request a hold on the arbitration proceeding pending a prompt reply from the Company to our request for an expedited arbitration.

Very Truly,

A handwritten signature of Frank Wunderlich in black ink.

Frank Wunderlich
President Local 584 I.B.T.

EXHIBIT R



September 29, 2012

VIA E-MAIL AND FAX

Mr. Frank Wunderlich
President
International Brotherhood of Teamsters
Milk Wagon Drivers & Dairy Employees Local No. 584
73 Hudson Street, 2nd Floor
New York, NY 10013

Re: September 26, 2012 Grievance

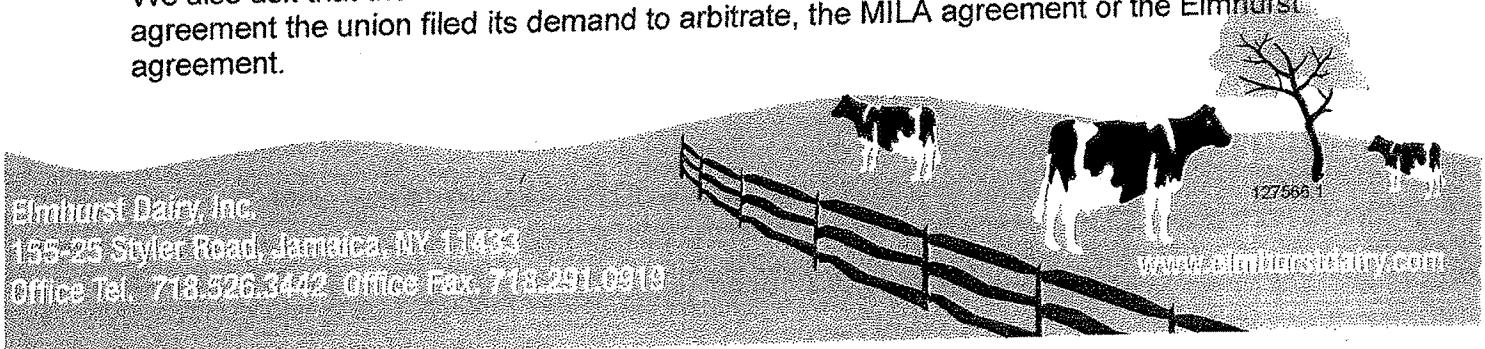
Dear Frank:

This is in answer to the grievance filed by the union dated September 24, 2012 and received on September 26, 2012. On September 16, 2012, the Company laid off the 42 least senior Utility employees under the MILA agreement. Consistent with the contractual provision in the MILA agreement, the Company paid the employees one week in lieu of one week's notice.

The union grievance claims violations of two collective bargaining agreements, i.e. the MILA agreement ("Section 4(b) (c) & (d), pages 2 to 4") and ("Section 13(e)" of the Elmhurst contract. Since the employees laid off were "existing employees" under paragraph 29 of the Elmhurst agreement, their terms and conditions of employment are governed by the MILA contract and not the Elmhurst agreement. Therefore, we do not see how the Company violated the collective bargaining agreement and the grievance is denied.

Pursuant to either collective bargaining agreement, the grievance procedure provides that the parties shall meet to discuss the underlying issues. Accordingly, we would propose to meet on October 3 to discuss the grievance. Specifically, we would ask the union to explain how the laid off employees, "existing employees," have seniority rights under Section 13(e) of the Elmhurst contract. Further, under what collective bargaining provision are we required to give prior notice of layoffs to the union as implied in your grievance.

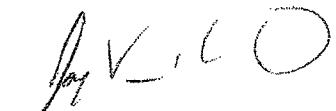
We also ask that the union indicate at the meeting under what collective bargaining agreement the union filed its demand to arbitrate, the MILA agreement or the Elmhurst agreement.



Mr. Frank Wunderlich
September 29, 2012
Page 2

Please let me know whether October 3, 2012 is an acceptable date. If not, please propose an alternative date.

Very truly yours,

A handwritten signature consisting of stylized initials "J.V." followed by a large, open circle.

Jay Valentine
Vice President & General Manager

EXHIBIT S

Teamsters 584

73 Hudson Street
New York, NY 10013
Phone (212) 571-1242
Fax (212) 571-2562

MILK AND ICE CREAM DRIVERS AND ALL
DAIRY AND ICE CREAM EMPLOYEES
NEW YORK, NEW YORK

AFFILIATED WITH
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

FRANK WUNDERLICH
PRESIDENT

THOMAS HELLY
SECRETARY-TREASURER

CHARLIE BRADY
VICE PRESIDENT



September 28, 2012

VIA-E-MAIL & FAX

Elmhurst Dairy, Inc
155-25 Styler Road
Jamaica, NY 11433
Mr. Jay Valentine

Re: Meeting October 3, 2012

Dear Jay,

In response to your E-mail requesting a meeting on October 3, 2012, be advised that the Union will meet on that date at the Marriot at 11:30 am to discuss our grievance we have filed with respect of the lay-off of 42 senior employees out of seniority order.

Very truly yours

A handwritten signature of Frank Wunderlich.

Frank Wunderlich
President
Local 584 I.B.T.

EXHIBIT T

BOND SCHOENECK & KING

Key Center | 40 Fountain Plaza, Suite 600 | Buffalo, NY 14202-2200 | bsk.com

ROBERT A. DOREN, ESQ.

Member

rdoren@bsk.com

P: 716.566.2833

F: 716.566.2834

C: 716.870.6480

October 4, 2012

VIA E-MAIL AND FAX

John T. Driscoll, Esq.
John T. Driscoll P.C.
300 East 42nd Street, 10th floor
New York, NY 10017

Re: *Layoff of Employees and Related Issues*

Dear Mr. Driscoll:

This is a written response to the grievance meeting which was held on October 3, 2012. The grievance is denied for the reasons asserted in our original answer.

At our meeting, the Company and Union agreed that each party may argue to the arbitrator which contract/seniority provision is applicable to this case and the parties will be proceeding in accordance with the rules under the American Arbitration Association ("AAA") as provided in the collective bargaining agreement.

The Company gave the Union documents it considered relevant at this time to the disputes being grieved, together with the list of employees hired before and after July 18, 2007, together with their hiring dates. This material was requested pursuant to your letter dated September 18, 2012.

On behalf of the Union, you have agreed to produce by October 12, 2012, the documents requested in my letter to you dated September 20, 2012.

It is our understanding that the Union plans on re-filing its request for an arbitration panel from AAA. You can have the AAA send the panel directly to me so that we can expeditiously select the arbitrator.

Very truly yours,

BOND, SCHOENECK & KING, PLLC



Robert A. Doren
RAD/dlo

cc: Frank Wunderlich (*via fax*)

127676.1 10/4/2012

EXHIBIT U

AMERICAN ARBITRATION ASSOCIATION
Notice of Hearing

December 13, 2012

John T. Driscoll
John T. Driscoll, P.C.
300 East 42nd Street 10th Floor
New York, NY 10017

Robert A. Doren, Esq.
Bond, Schoeneck & King, PLLC
40 Fountain Plaza
Suite 600
Buffalo, NY 14202

Re: 13 300 02326 12
Local 584, IBT
and
Elmhurst Dairy, INC.

Grievances: Employer in violation of CBA between the parties laid off forty-two (42) senior Union employees out of seniority order. (CBA, dated 10/13/11, Par. 13, Seniority)

PLEASE TAKE NOTICE that a hearing in the above-entitled arbitration will be held as follows:

Place: American Arbitration Association
1633 Broadway, Floor 10
New York, NY 10019

Date: February 26, 2013

Time: 10:00 AM

Before: Jeffrey Tener

NOTE:

Please attend promptly with your witnesses and be prepared to present your proofs.

Lauren Wilson
Supervisor
212 484 4162
Wilsonl@adr.org

NOTICE: The arbitrator has arranged his/her schedule and reserved the above date(s) based on the advice of the parties. Therefore, every effort should be made to appear on the date(s) scheduled. In the event that unforeseen circumstances make it impossible to attend the hearing as scheduled, a party requesting a postponement should obtain the agreement of the other party. If there is no mutual agreement, the arbitrator(s) will make a determination. All requests for postponements must be communicated to the Case Manager not the arbitrator. There should be no communication between the parties and the neutral arbitrator(s) other than at oral hearings. In some instances, postponements are subject to cancellation fees by the arbitrator(s). Any party wishing a stenographic record must make arrangements directly with the stenographer and notify the other parties in advance of the hearings.

cc: Jeffrey Tener